

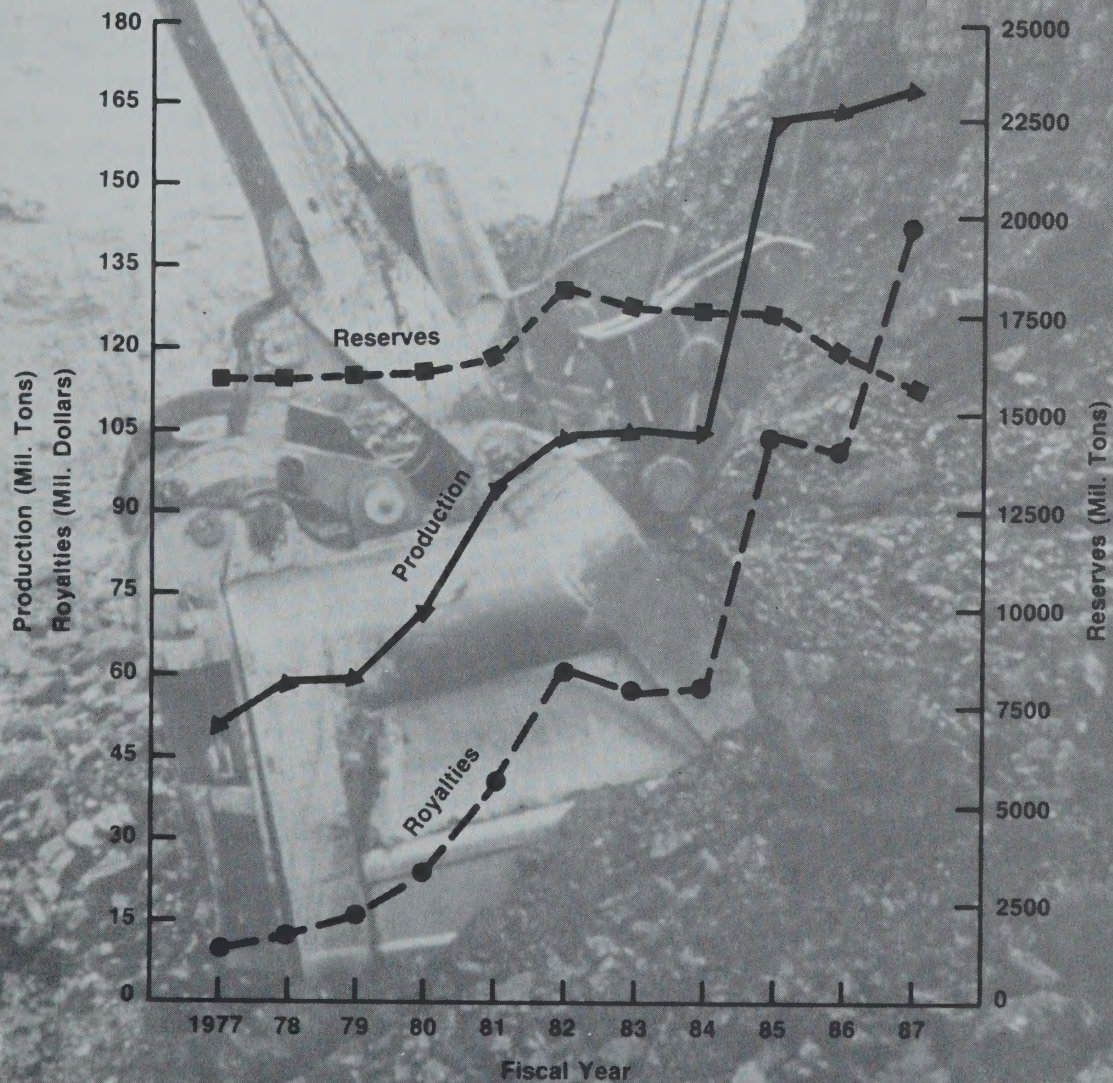


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Federal Coal Management Report

Fiscal Year
1987



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THE SECRETARY OF THE INTERIOR
WASHINGTON

August 30, 1988

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

In compliance with Section 8 of the Federal Coal Leasing Amendments Act of 1976 (FCLAA), Public Law 94-377, I am pleased to present to you the Federal Coal Management Report, Fiscal Year 1987.

This report summarizes the major coal management and related activities carried out under the Federal coal management program during Fiscal Year (FY) 1987. Major achievements during FY 1987 included the implementation of the Department's February 1986 decisions on revisions to the coal leasing program and the completion of negotiations with environmental groups over the procedures to be used in processing the remaining coal preference right lease applications (PRLAs). A record 168 million tons of Federal coal were mined in FY 1987, nearly 19 percent of the U.S. total production, valued at \$2.6 billion, which generated more than \$142 million in royalties. The first report under the program in FY 1977 recorded 50 million tons produced, valued at \$433 million, with \$9.9 million royalty paid to the Treasury. Emphasis of the Federal coal management program has shifted significantly from leasing to supervision of operations, particularly stressing production verification for accuracy of royalty reporting.

To prevent bypass of Federal coal, royalty rate reduction guidelines were issued June 26, 1987, to implement regulations promulgated under Section 39 of the Mineral Leasing Act of 1920, as amended and supplemented (MLA). Under Section 39 of the MLA, the Secretary is authorized to reduce the royalty rate below the minimum specified by statute or regulation for an entire leasehold or on any portion of the lease when it is necessary to encourage the greatest ultimate recovery, and in the interest of conservation of natural resources to promote development, or when the lease cannot be successfully operated under the lease terms. Rules to implement Section 2(a)2(A) of MLA (Section 3 of FCLAA) were published December 5, 1986, to ensure compliance with provisions of the Act. Guidelines for processing an application for suspension of a coal lease were issued June 15, 1987, to promote relief to lessees under certain conditions. Additionally, we note that there are now two bills (S. 1120 and S. 2325) under consideration by Congress that would amend the Mineral Leasing Act of 1920 to improve the administration of the Federal Coal Management Program. The Department's position is represented by S. 2325.

Statistically, the report features details of Federal coal production, royalties, total lease acreages and recoverable reserves, and presentations of important leasing actions that transpired during FY 1987.

The annual report entitled, Competition in the Coal Industry, analyzing competition in the coal and energy industry is prepared by the Department of Justice, as mandated by the Act, and is transmitted separately.

I trust you will find the report informative.

Sincerely,

Ronald Paul Hodel

Enclosure

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PREFACE

The annual Federal Coal Management Report, mandated by the Federal Coal Leasing Amendments Act of 1976 (FCLAA), and the eleventh to be transmitted to Congress, focuses on the implementation of the Federal coal management program during Fiscal Year (FY) 1987.

This report is divided into five major parts: (1) Introduction summarizing the status of Federal coal lands and current leases and applications; (2) Changes in the Federal Coal Management Program briefly describing the changes to the Federal coal management program that were implemented in FY 1987; (3) Management, Supervision, and Enforcement in FY 1987 presenting the FY 1987 responsibilities and activities of the Bureau of Land Management (BLM), Minerals Management Service (MMS), Geological Survey (GS), Office of Surface Mining Reclamation and Enforcement (OSMRE), Fish and Wildlife Service (FWS), Department of Agriculture/Forest Service (FS), and Department of Justice (DOJ); (4) Litigation briefly discussing litigation concerning Federal coal activities; and (5) Major Issues for 1988, as mandated, providing a brief description of current issues concerning the Federal coal program. There is also an appendix containing comprehensive statistics.

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ACKNOWLEDGMENTS

This report was prepared in the Bureau of Land Management (BLM) by a team under the leadership of Robert Boyer with input from the staff of the BLM's Division of Solid Mineral Operations, Division of Solid Mineral Leasing, and the Division of Minerals Policy Analysis and Economic Evaluation. Additional information and review were provided by the Department of Interior's Office of the Solicitor, U.S. Geological Survey, Minerals Management Service, Office of Surface Mining Reclamation and Enforcement, Fish and Wildlife Service, Department of Agriculture/Forest Service, and Department of Justice. Special graphics design and support were provided by the BLM's Division of Administrative Services, Branch of Support Services, Graphics Section.

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I. INTRODUCTION

Section 8B of the Federal Coal Leasing Amendments Act of 1976 (FCLAA) requires an annual report on leasing and production of coal lands; a summary of management, supervision and enforcement activities; and recommendations to the Congress for improvements in management, environmental safeguards and amount of production in leasing and mining operations on coal lands. The report must also contain a section by the Attorney General on competition in the coal and energy industries including an analysis of whether the antitrust provisions of FCLAA and the antitrust laws are effective in preserving or promoting competition in the coal or energy industry. Accordingly, the Federal Coal Management Report complies with provisions of the Act.

In response to provisions of FCLAA, the Secretary of the Department of Interior (DOI) established a new Federal coal management program in 1979, comprizing the two essential activities: (1) leasing, and (2) supervising lease operations. Although the primary responsibility for the program is in the DOI, namely BLM, MMS, OSMRE, GS and FWS, three additional agencies have important requirements: FS, DOJ and the Department of Energy. Chief components of leasing include land-use planning, competitive regional lease sales, leasing by application, disposition of pending preference right lease applications, and lease issuance, modification and exchanges.

Supervision of lease operations ensures orderly and efficient exploration, development, mining, preparation, and handling of coal to prevent waste or loss of coal or other resources; ensures maximum economic recovery of coal; ensures that operations meet requirements for diligent development and continued operation and other provisions of the Mineral Leasing Act of 1920, as amended and supplemented (MLA), regulations and lease terms; and are in compliance with approved exploration plans and mining and reclamation plans.

The Federal Government owns about one-third of the Nation's coal resources. Coal resources owned and administered by the Federal government are located on approximately 75.6 million acres of land principally in the Western States. Western Federal lands contain as much as 60 percent of the total western coal reserve base. An additional 20 percent of the coal in the West is under the influence of the Federal Government by virtue of the trust responsibility for Indian lands, and where State and private coal reserves are combined with Federal leases to form logical mining units (LMU's).

In FY 1987, 168.0 million tons of Federal coal were mined (see Figure 1 for regional distribution), a slight increase of 2.5 percent from the 163.9 million tons of Federal coal mined in FY 1986. This FY 1987 production accounted for approximately 18.9 percent of the total U.S. production, up 0.4 percent from the 18.5 percent of the total U.S. production in FY 1986. Total U.S. production in FY 1987 was approximately 889 million tons, as compared to 887 million tons in FY 1986. In FY 1987, total reported royalties on Federal coal leases were 142.3 million dollars (see Figure 1-A for regional distribution), a 40.8 percent increase from the total reported

royalties of 101.1 million dollars in FY 1986. This significant increase in reported royalties is due to the greater number of producing leases paying a percentage of production value, which is considerably higher than the previous cents-per-ton royalty rates.

As of September 30, 1987, there were 552 Federal coal leases covering 806,984 acres and containing approximately 15.66 billion tons of recoverable reserves. Fifty-two Federal coal leases were accepted for relinquishment during FY 1987 covering 76,158 acres and containing approximately 884 million tons of recoverable reserves. Two leases in New Mexico transferred jurisdiction to Indian control as lands were patented under the Navajo-Hopi Settlement Act of 1974. One lease was terminated in Utah effective May 1, 1987, due to failure to produce commercial quantities within 10 years of becoming subject to FCLAA. At the end of FY 1987, 35 Federal coal leases were pending relinquishment.

During FY 1987, 6 new Federal coal leases were issued comprising a total of 2,614 acres containing approximately 12.53 million tons of recoverable reserves. All of the 6 new leases issued in FY 1987 were processed in response to applications for lease sales. Four of these sales had been held in FY 1986. Two private coal leases which were previously under the jurisdiction of the Corps of Engineers in the Ohio River District were transferred to the management of the BLM in FY 1987. The leases were acquired by the Corps of Engineers in the Yatesville Lake Project in Kentucky.

In FY 1987, 2 Federal coal lease tracts were sold covering 454 acres containing approximately 3.76 million tons of recoverable reserves (Table 1). Lease sales brought \$134,140 in bonus bids. As of September 30, 1987, 109 preference right lease applications (PRLAs) remain in processing.

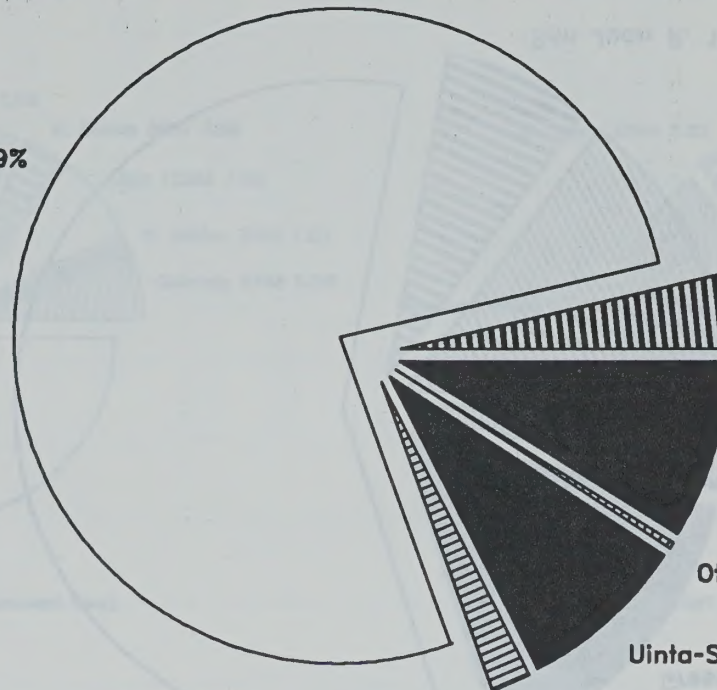
From FY 1982 through FY 1987, 86 Federal coal leases were issued and 57 leases were sold. Several reasons why 29 more leases were issued than sold are: many of the leases sold in FY 1981 and FY 1982 were not issued until the following fiscal years after the sale; 10 preference right leases were issued between FY 1982 and the end of FY 1986; and there were several lease exchanges and partial lease assignments that resulted in new leases. See Tables A-8 and A-9 in Appendix A, page 57.

Figure 1-B graphically depicts the production and royalties reported per state on Federal coal leases in FY 1987. Figure 1-C illustrates the rise in production and royalties reported on Federal coal leases from FY 1977 thru FY 1987. Figures 2 and 3 graphically depict the acreage and reserves of the Federal coal production regions. Appendix A (pages 47 to 79) provides a detailed description of the total U.S. and Federal coal lands and the Federal coal leases and lease applications.

Figure 1
Federal Coal Leases - FY 87 Production
Tons Produced and Percentage Share,
of Total Production, by Region

Total: 168.0 Million Tons

Powder River 129.24 76.9%



Fort Union 6.12 3.6%

GreenR.-Hams Fork 14.86 8.8%

Other .554 .3%

Uinta-SW Utah 14.03 8.3%

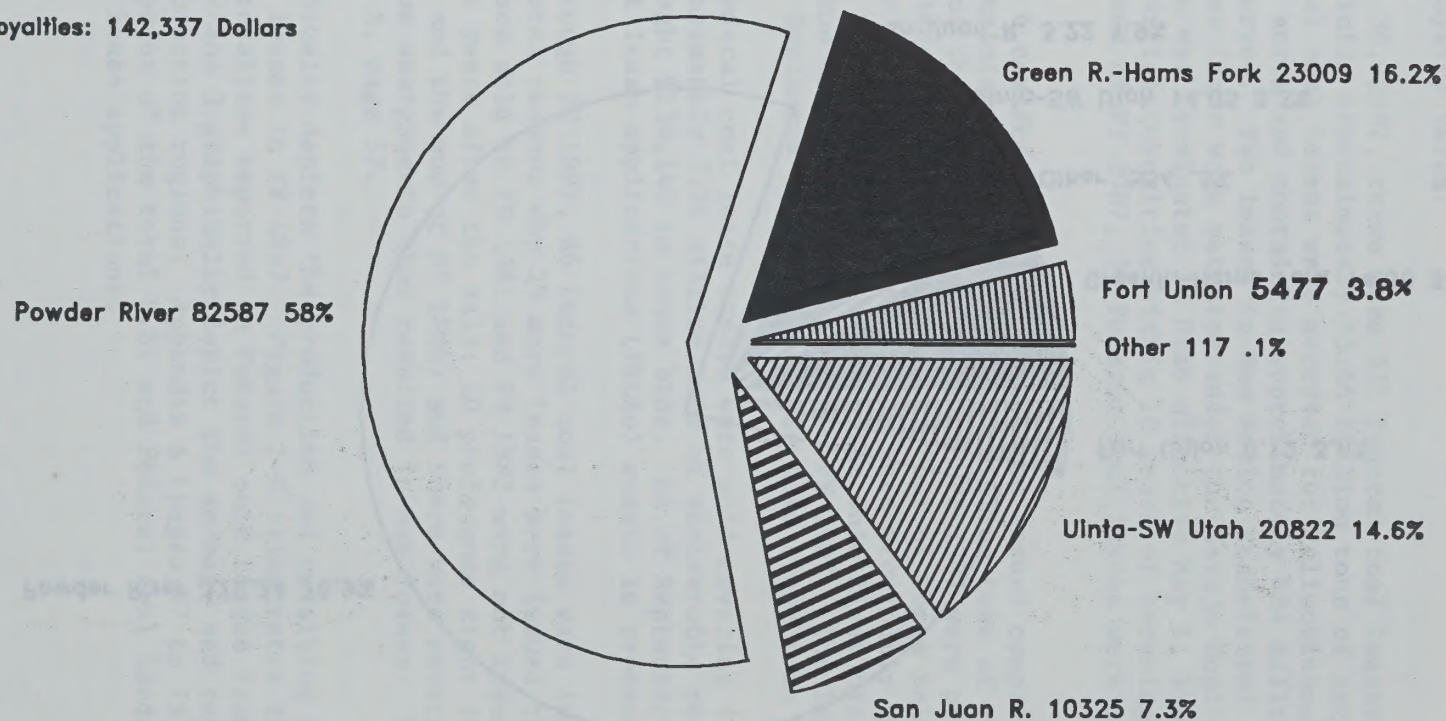
San Juan R. 3.22 1.9%

Note: Other includes those leases not in a designated coal region

Source: Minerals Management Service, Royalty Management Program

Figure 1-A
Federal Coal Leases - FY 87 Royalties Reported Per Region
and Percentage of Total Royalties in Each Region
In Thousand Dollars

Total Royalties: 142,337 Dollars

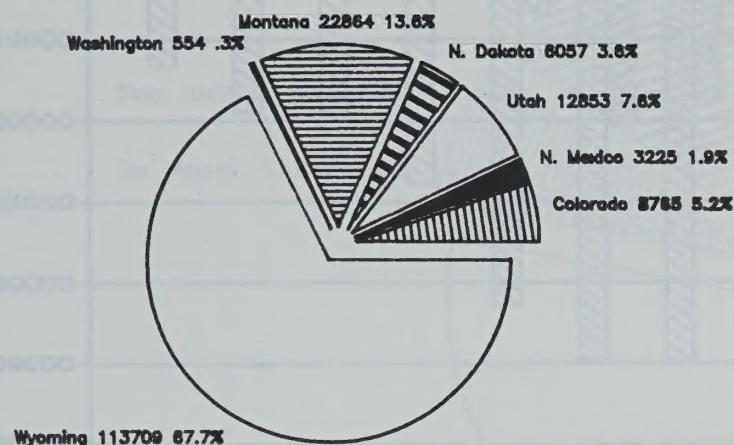


Note: Other includes those leases not in a designated coal region

Source: Minerals Management Service, Royalty Management Program

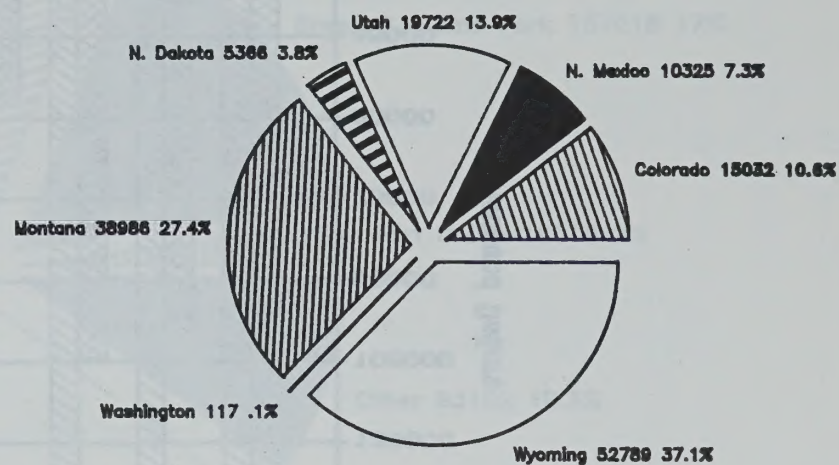
Figure 1-B
Federal Coal Leases - FY 87 Production and Royalties
Reported per State and Percentage Share per State

Total: 168,027 Thousand Tons



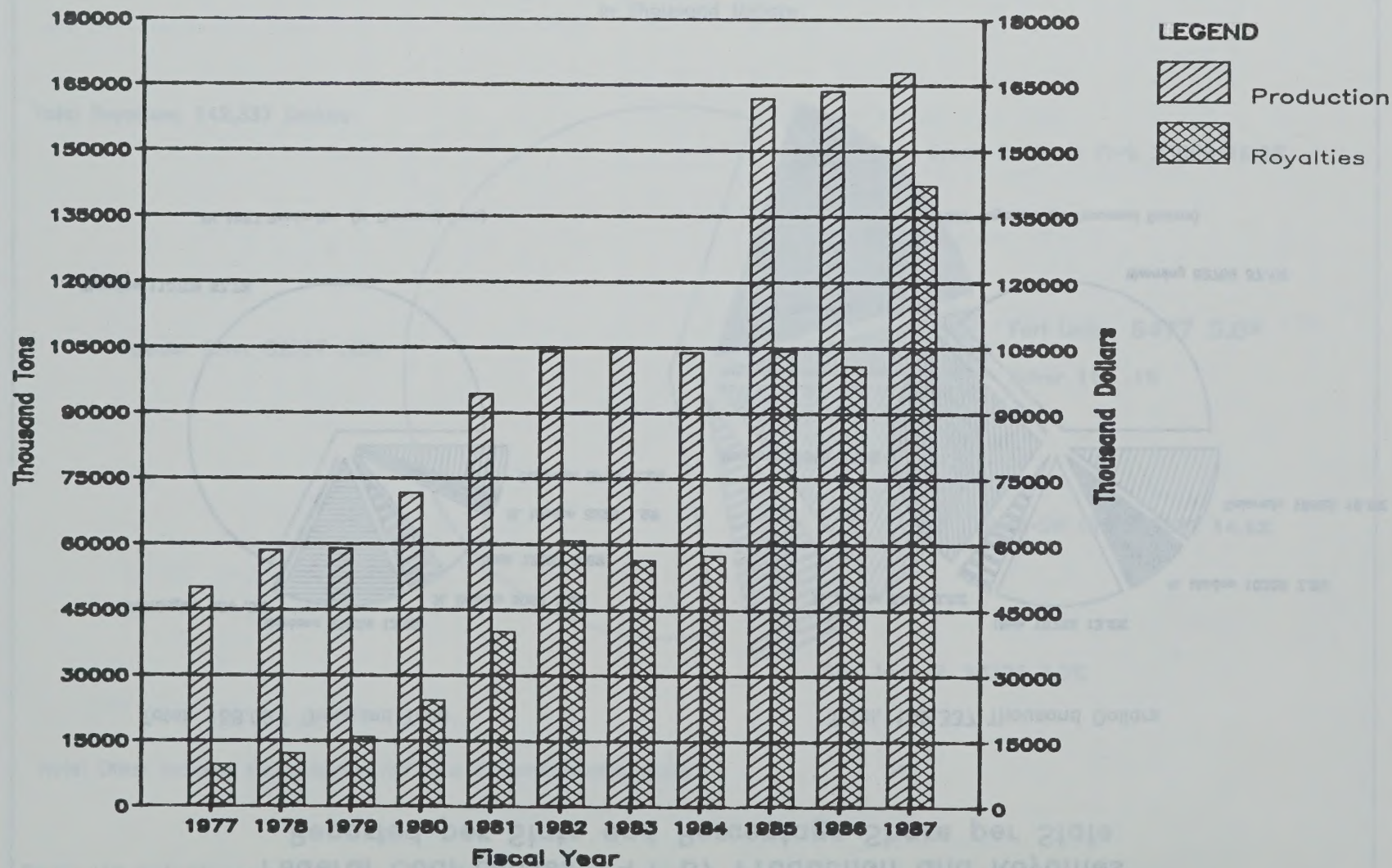
FY 1987 Production (in Thousand Tons)

Total: 142,337 Thousand Dollars



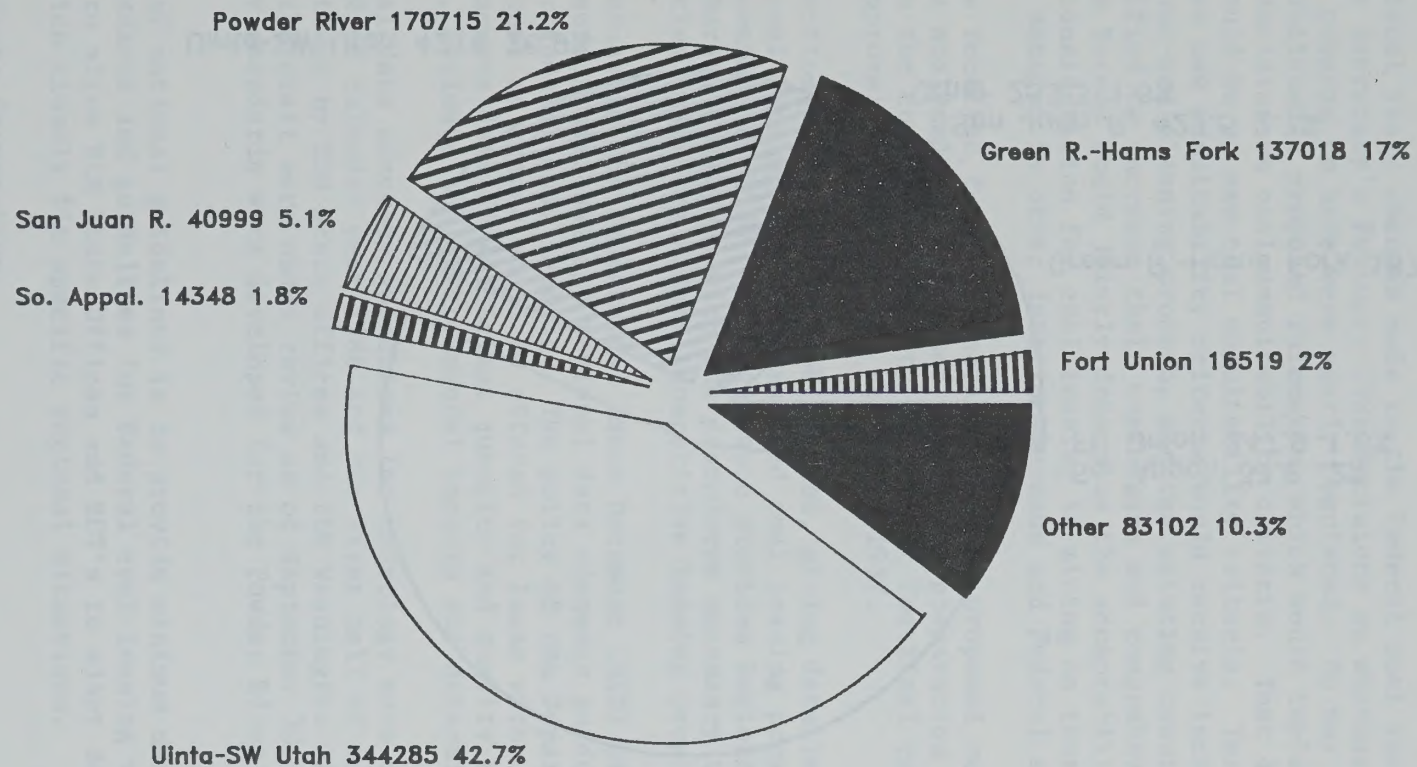
FY 1987 Royalties (in Thousand Dollars)

Figure 1-C
Production and Royalties Reported from Federal Coal Leases
FY 1977 thru FY 1987



Source: Minerals Management Service, Royalty Management Program

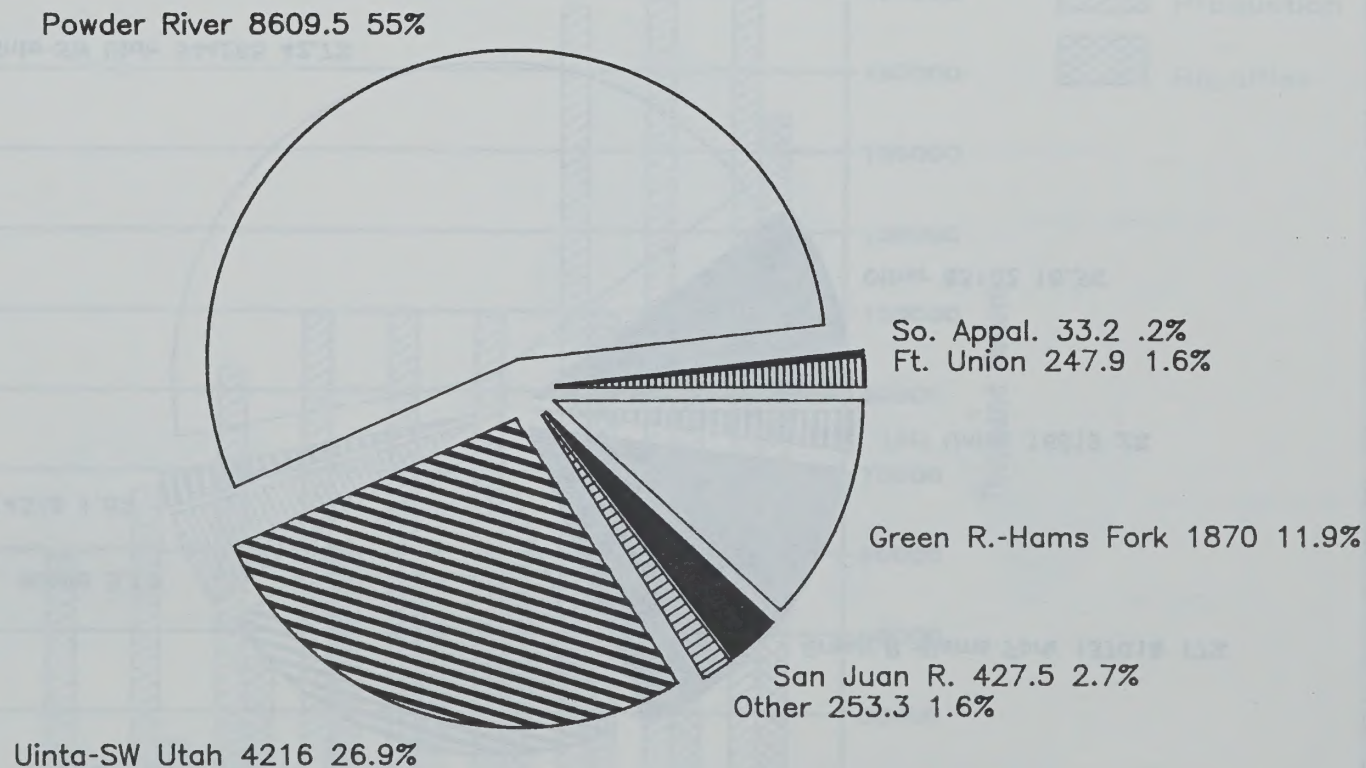
Figure 2
Federal Coal Leases - Acreage Per Region and Percentage
of Total Federal Acreage in Each Region - FY 1987
Total Acreage: 806,984 Acres



Note: Other includes those leases not in a designated coal region

Source: Solid Leasable Minerals System, Sept. 30, 1987

Figure 3
Federal Coal Leases - Recoverable Reserves By Region
and Percentage of Total Reserves in Each Region - FY 1987
Total: 15,657.5 Million Tons



Note: Other includes those leases not in a designated coal region

Source: Solid Leasable Minerals System, Sept. 30, 1987

II. CHANGES IN THE FEDERAL COAL MANAGEMENT PROGRAM

A. Status of Leasing Program Changes.

During the fiscal year, changes made to the Federal coal leasing program as a result of the Secretary's February 1986 decisions on whether and which type of coal leasing program to have were nearly completed. On May 15, 1987, the Department published a proposed rulemaking which would implement the Secretary's decision on coal unsuitability criteria. That decision stated that there would be no new coal unsuitability criteria. Instead, those items recommended as new unsuitability criteria would receive increased emphasis during the land-use planning process, and the existing unsuitability criteria would be modified to increase their usefulness and comprehensibility. In addition, the Bureau would jointly determine the acceptability of its lands for further consideration for coal leasing if mining on those lands would impact lands managed by other Interior bureaus and Federal agencies.

Comments were received from nine entities on the proposed regulations. These comments were analyzed and addressed during the preparation of the final rulemaking on the coal unsuitability criteria. The final rulemaking package was in the approval process at the end of FY 1987.

Two manual sections and one handbook section, giving detailed procedures for competitive coal leasing under the revised coal leasing program, were issued effective December 18, 1986. This guidance provides Regional Coal Teams (RCT's) and Bureau employees with the procedures necessary to carry out their responsibilities under the Federal competitive leasing program.

One of the issues in the Secretarial Issue Document (SID) of February 1986 was the development of national and regional data adequacy guidelines and standards for Federal coal leasing. The policy of the Department of the Interior is that no tracts would be offered for lease without adequate coal and other resource data of sufficient quantity and quality to delineate coal lease tracts, evaluate the environmental impacts and determine tract values.

Draft national data adequacy guidelines for hydrology were developed during the last half of calendar year 1986 and the first half of calendar year 1987 and were reviewed by BLM State Offices and BLM Washington Office staffs. The comments on the draft were under review as of September 30, 1987. Regional data adequacy standards were developed for the Powder River Basin during FY 1987.

The purpose of national guidelines is to provide minimum national level data adequacy standards and guidelines for Federal coal leasing with enough flexibility to allow BLM State Offices and RCT's to adopt data adequacy standards which closely fit specific regional situations.

B. Federal-State Cooperation.

Two RCT's were chartered in FY 1987. The Uinta-Southwestern Utah RCT was chartered on June 4, 1987, and the Fort Union RCT charter was adopted on September 28, 1987. This brings to four the number of RCT's with charters approved by the Secretary. The San Juan River RCT is scheduled to be chartered in FY 1988.

The Powder River RCT met on December 4, 1986, reviewed long-range market conditions, and recommended to the Secretary that a decision to resume regional activity planning should be deferred until the fall of 1987 (FY 1988), at which time market conditions would be reevaluated. The Department endorsed this recommendation, as well as a recommendation that Big Horn County be dropped from the Powder River Federal Coal Production Region. Other Powder River RCT activities included completing and adopting regional data adequacy standards and guidelines and calling for expressions of leasing interest in a Federal Register notice dated July 31, 1987.

At the end of FY 1987 the San Juan RCT was preparing a charter for submission to the Secretary. All prospective RCT members and the public were given an opportunity to comment on or recommend changes to the proposed charter language.

In January 1987 the Southern Appalachian Alabama Subregion RCT was decertified. Prior to the decertification, the Governor of Alabama had written the Director, Eastern States Office, and recommended opening the Alabama subregion to lease-by-application procedures. The proposal was published in the Federal Register (FR) for public comment, and no comments were received. The Eastern States Director then concurred with the Governor and recommended that the subregion be decertified. The Governor of Alabama will retain representation on the Federal-State Coal Advisory Board (FSCAB).

In addition, the lead State Directors prepared and submitted to the Washington Office regional production capacity estimates. These estimates are used in preparing long-range regional market analyses, which assist the RCT's in developing long-range regional lease sale plans, and in determining the need for resumption of regional activity planning.

C. Status of Operations Program Changes

Guidelines were issued by the BLM on June 15, 1987, to BLM Field offices for processing an application for a suspension of a coal or other solid mineral lease.

Section 303 of the Federal Oil and Gas Royalty Management Act (FOGRMA) mandated a Secretarial Report on the adequacy of royalty management for solid minerals. One of the recommendations of that Secretarial Report was to create an effective system to monitor inspection and enforcement/production verification (I&E/PV) activities. Accordingly, solid mineral assistance teams (SMATs) were initiated in FY 1987 as part of the implementation of the I&E/PV guidelines. SMATs visited 4 states in FY 1987, and have been helpful in promoting consistency in the I&E/PV program in the field offices.

On December 5, 1986, BLM published in the Federal Register final rules to implement Section 2(a)(2)(A) of the MLA (Section 3 of FCLAA (51 FR 43910)).

The guidelines to implement the regulations in Title 43 of the Code of Federal Regulations (CFR) at 43 CFR 3485.2(c)(2), to obtain a royalty rate reduction on Federal coal, became effective June 26, 1987.

III. MANAGEMENT, SUPERVISION, AND ENFORCEMENT

The BLM, MMS, GS, OSMRE, and FWS carried out a number of the requirements of the Federal coal management program in FY 1987. The Federal coal management program consists of leasing and operations components. Additional responsibilities relating to Federal coal leasing are carried out by agencies outside the Department of the Interior (DOI), particularly by the U.S. Forest Service (FS) and the Department of Justice (DOJ).

A. BUREAU OF LAND MANAGEMENT

The Bureau serves as the principal Federal agency for the leasing and management of Federal coal reserves. In its roles as coal lessor and manager, the Bureau coordinates with other Federal agencies and State and local governments whose responsibilities may be affected by coal-related activities and with representatives of industry and environmental groups, whose interests are affected by how coal is leased and managed.

Coal mining regulations were issued on May 18, 1916, to govern coal mining in the Territory of Alaska under the Alaskan Coal Leasing Act of October 20, 1914. Practically all the regulations that governed operations were incorporated into the lease form.

The first draft of operating regulations to govern coal mining on the public domain was prepared on April 12, 1920, by the Bureau of Mines, which had the responsibility for supervision of Federal leases until delegated to the Geological Survey in 1925 by Departmental Order No. 54. The regulations approved by the Secretary on April 30, 1921, were patterned after the Alaskan regulations, and did not apply to coal mining in Alaska and mining on Indian lands. Expansion of the operating regulations occurred in 1937, 1944, and 1946.

Therefore, since 1916, a centerpiece of Interior's coal responsibilities is its coal operations program. Enactment of FCLAA in 1976 expanded responsibilities to include actions on exploration and resource recovery and protection plans, logical mining unit (LMU) applications, and other associated operations issues, such as inspection and enforcement/production verification, readjustments, suspensions, assignments, relinquishments, modifications, diligence, and Section 2(a)(2)(A) of MLA lessee qualifications. The BLM is solely responsible for the verification of all production from Federal coal leases. The MMS uses this information to properly assess production royalties.

1. Leasing Activities

Land Use Planning

The first major step in the Federal coal leasing program is land-use planning by the surface management agency. Decisions resulting from the land-use planning process identify resource uses, including lands acceptable for further consideration for coal leasing. These areas are identified after reviewing all lands in a planning area using the four coal screens that are integral to the planning process. These screens are listed below.

1. Areas are eliminated from coal leasing consideration if they do not have coal development potential.

2. Areas are eliminated if they contain coal but are judged unsuitable for surface coal mining, using the 20 coal unsuitability criteria and their exceptions and exemptions found in 43 CFR 3461.

3. Additional coal areas may be eliminated on multiple-use grounds if other resource values are determined to be superior to coal.

4. Surface owner consultation may also result in the elimination of split estate lands minable by surface methods from further consideration for leasing in areas where a significant number of qualified surface owners have stated a preference against surface coal mining. Application of the unsuitability and multiple-use screens contributes to the completion of the Federal Lands Review required by Section 522(b) of Surface Mining Control and Reclamation Act of 1977 (SMCRA).

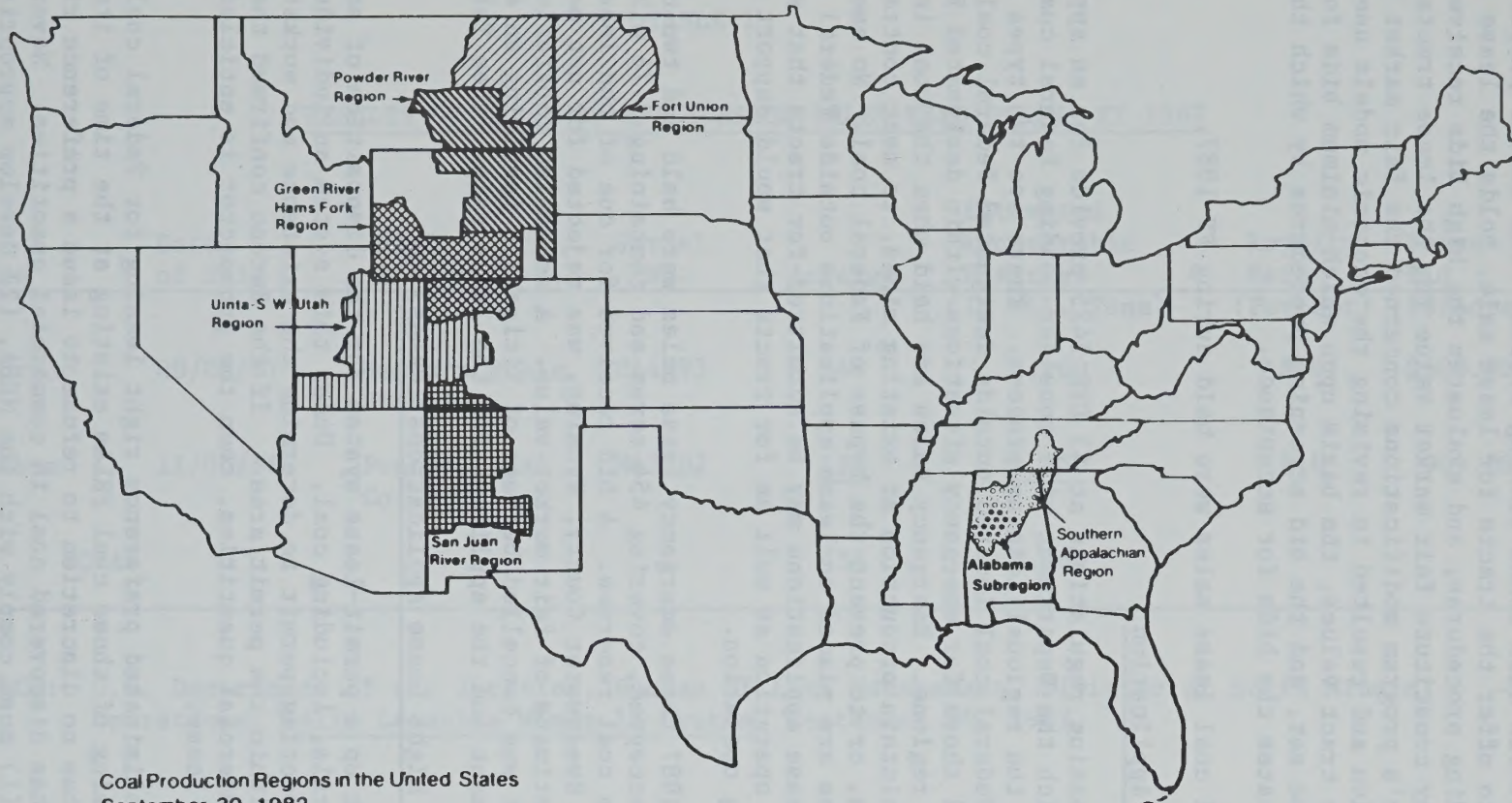
The Secretary's February 1986 coal program decisions require the BLM to have in place resource management plans (RMP's) before initiating any new rounds of regional activity planning. Existing management framework plans (MFP's) may, however, be used to support lease by application sales and regional activity planning suspended by the Secretary's 1984 administrative moratorium. Information developed by the Bureau in the land-use planning process is provided to the OSMRE for its use in determining that the Federal Lands Review has been completed.

Regional Coal Activity Planning

Regional coal activity planning (defined in 43 CFR 3420) takes place on lands within a Federal coal production region which have been included in one or more completed land-use plans. Regional coal activity planning involves a call for expressions of leasing interest, the establishment of leasing levels, and the delineation, ranking, selection, and scheduling of tracts for lease sale from the land identified in land-use plans as acceptable for further leasing consideration. The RCT's play a crucial role throughout the activity planning process by guiding the leasing studies and recommending regional leasing levels and lease sale schedules to the Secretary.

A regional environmental impact statement (EIS) is prepared during regional activity planning and is the National Environmental Policy Act of 1969 (NEPA) analysis for the proposed sale. The delineated tracts that have been selected for further study in the regional EIS by the RCT are grouped into leasing alternatives. At least one alternative must fall within the leasing level range and is usually selected as the proposed action. Participation of State and local governments is actively sought during the preparation of the regional EIS. Before making a final leasing decision, the Secretary consults with the Governors of the affected States, affected surface management agencies, and the Department of Justice. The Secretary's final decision includes whether to offer coal and, if so, how much coal to offer, when to hold the lease sale or sales, and how the coal will be offered, e.g., special leasing opportunities, intertract bidding, cooperative leasing. See map of Federal coal production regions on page 13.

Figure 4
Federal Coal Production Regions



Coal Production Regions in the United States
September 30, 1982

Lease Sales

The Bureau leases coal through competitive sales using a fixed royalty-variable cash bonus bidding system. The Bureau prepares the paperwork necessary to offer the tracts for lease sale, holds the lease sale using sealed bidding procedures, and evaluates the high bids received to determine whether they constitute fair market value for the lease tracts. Many of last fiscal year's program modifications concerned the fair market value determination and resulted in revising the economic models used by the Bureau to estimate tract values, the basis upon which minimum bids for coal lease sales may be set, and the bid screening procedures by which the Bureau sale panel evaluates the bids for acceptance.

No regional coal lease sales were held during FY 1987.

Leasing by Application

The coal leasing regulations at 43 CFR 3425 provide for an application process through which the Department will consider holding Federal coal lease sales apart from the regional leasing process. There are two types of applications, those for Federal coal located outside designated Federal coal production regions and those for emergency situations within designated Federal coal production regions. Emergency sales are held when the coal is needed within 3 years to maintain production at existing mines, to meet contractual obligations, or to prevent the bypass of Federal coal. No emergency restrictions are placed on lease applications outside Federal coal production regions; lease applications may be submitted for tracts that would support a new mining operation as well as for tracts that would support continuation of an existing operation.

During FY 1987 three emergency lease sales were held and two of the lease sale bids were accepted, covering 454 acres and containing 3.76 million tons of recoverable coal reserves. A bid received for one of the lease tracts, located in Sweetwater County, Wyoming, was rejected for not meeting the Bureau's estimate of fair market value. A scheduled reoffering sale of the lease tract was cancelled because of litigation involving an exchange between the Department and the applicant for the lease sale. (See Table 1.)

Preference Right Lease Applications (PRLAs)

The MLA set up a permit-lease system for the disposition of some publicly owned minerals, including coal. Under this system an individual could apply for a prospecting permit to determine the existence and workability of coal deposits within the permit area. If the Bureau confirmed the discovery of coal in commercial quantities, then the prospector is entitled to a preference right to a lease.

The FCLAA eliminated preference right leasing for Federal coal but permitted the processing of those coal PRLAs existing at the time of its enactment. The Secretary has no discretion to refuse to issue a preference right lease if the applicant has discovered coal in commercial quantities. Nevertheless, the Secretary (1) must comply with the NEPA, (2) develop appropriate environmental impact mitigation measures, and (3) consider the cost of those mitigation measures in determining commercial quantities.

TABLE 1

RESULTS OF LEASE-BY-APPLICATION SALES HELD DURING FY 1987

State	Date of Sale	High Bidder	Serial No.	Acreage	Estimated Recoverable Reserves (In Mil. Tons)	Royalty Rate (Percent)	Bonus Bid (\$/Acre)
Colorado	08/06/87	Western Fuels, Utah Inc.	C44693	344	2.100	8.0	\$100.00
Montana	11/05/86	Peabody Coal Co.	M63202	<u>110</u>	<u>1.660</u>	8.0	909.09
TOTAL				454	3.760		

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1987.

As of September 30, 1987, there were 109 coal PRLAs pending (see Table 2). This number does not include two PRLAs in Alaska which were conveyed during FY 1986 to an Alaska native corporation as part of a selection made under the Alaska Native Claims Settlement Act. At the end of FY 1987, the conveyance was under appeal to the Interior Board of Land Appeals (IBLA). During FY 1987 no preference right leases were issued. One application in Colorado was withdrawn and one application in Utah was rejected for failing to file required information. Twenty-two PRLAs in Montana, New Mexico, and Utah were affected by the processing ban imposed by Congress in the FY 1987 Appropriations Act for Interior and Related Agencies. These 22 PRLAs are located in Bureau wilderness study areas and Forest Service Rare II Areas or are closely associated with PRLAs in such areas and could not be processed separately.

Proposed regulations, providing detailed procedures for use in processing the remaining coal PRLAs, were published in the Federal Register on February 20, 1987. The proposed regulations were designed to allow full public participation throughout the processing of coal PRLAs and to comply with the court order in NRDC v. Berkland, 458 F.Supp. 925 (D.D.C. 1978), aff'd 609 F.2d 553 (D.C. Cir. 1979). Comments were received from 11 entities on the proposed rulemaking. These comments were considered and addressed in the final rulemaking, published in the Federal Register on July 8, 1987. To assist Bureau offices in processing PRLAs under the revised regulations, a manual section and handbook were prepared and released for field use on August 8, 1987, the effective date of the final regulations.

The regulations are an outgrowth of more than 4 years of negotiations with several environmental groups concerned about the Bureau's handling of PRLAs in conformance with the court order and opinion in Berkland. September 10, 1987, marked the conclusion of the negotiations, with the filing of a joint motion to reopen the Berkland lawsuit, grant intervenor status to those environmental groups not having standing in the lawsuit, and to amend the existing court order. Attached to the joint motion were a proposed order to replace the existing order, the settlement agreement between the Department and environmental groups, both the proposed and final PRLA processing regulations, and the environmental groups' July 29, 1987, letter to the Department, indicating that the final regulations were substantially similar to the proposed regulations and acceptable to the groups.

Exchanges Involving Coal

The Department conducts two types of exchanges that involve the transfer of coal mineral rights. Enactment of the FCLAA removed the Department's general authority to issue coal leases noncompetitively, a revocation that has ruled out all coal lease exchanges except for those specifically legislated by Congress. Where specifically allowed or directed by law, the Department may award a new coal lease to a Federal or Indian coal lease holder in exchange for relinquishment by the lessee of an existing lease or leases. In the lease exchange statutes enacted to date, lease exchanges have been made on an equal-value basis.

The Bureau may also consider fee coal exchanges under section 206 of the Federal Land Policy and Management Act (FLPMA) on a case-by-case basis in response to proposals from private fee coal owners. There are some instances where Bureau field officials may also identify coal land areas during land-use

TABLE 2

CURRENT STATUS OF PRLAs, PRLAs WITHDRAWN DURING FY 87,
BY STATE

State	Number Of PRLAs 10/1/86	Acres	PRLAs Withdrawn	Acres	Number Of PRLAs 9/30/87	Acres
Alaska	2 <u>1</u> / ₁	5,120	2	5,120	--	--
Colorado	9	18,356	1	1,203	8	17,153
Montana	4	15,662	--	--	4	15,662
New Mexico	26	75,510	--	--	26	75,510
Utah	12	39,549	1	640	11	38,909
Wyoming	<u>60</u>	<u>120,561</u>	<u>--</u>	<u>--</u>	<u>60</u>	<u>120,561</u>
Total	113	274,758	4	6,963	109	267,795

1/ Two PRLAs in Alaska have been conveyed to Arctic Slope Regional Corp., pending appeal to the Interior Board of Land Appeals (IBLA)

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1987.

planning as having fee coal potential. The environmental impacts of proposed exchanges are studied before any exchange is completed. All section 206 exchanges must be of equal value and in the public interest.

In February 1987 the General Accounting Office (GAO) completed an evaluation of the Department's procedures for administering the coal lease and coal land exchanges. The GAO found that the Department had developed explicit, agencywide criteria for determining whether some types of exchanges, that is, fee title exchanges, were in the public interest, but that it had not done so for coal alluvial valley floor (AVF) and lease exchanges. During FY 1987, substantial progress was made on developing public interest criteria for coal lease and AVF lease and land exchanges. These criteria will be contained in two manual sections, one concerning coal lease exchanges and the other concerning coal AVF exchanges, to be published in early FY 1988.

I-90 Lease Exchanges. Public Law 95-554 allowed the Secretary to exchange nine coal leases associated with Interstate Highway 90 (I-90) in Wyoming. The nine leases are held by six lessees. One exchange was completed in 1982, another in 1983, and another in 1986. Also in FY 1986, two exchange proposals were rejected as not being in the public interest. Both rejections were appealed to the IBLA, and one of the appeals was subsequently withdrawn and the lease relinquished. On March 11, 1987, the IBLA ruled on the remaining appeal by remanding the exchange decision to BLM to make a formal, written determination on whether or not the exchange was in the public interest. The determination was still under consideration at the end of FY 1987.

McKinley County Fee Coal Exchange. In March 1987, the BLM completed a fee coal exchange with the Cerillos Land Company, a subsidiary of the Santa Fe Railroad. The United States acquired 6,320 acres of fee coal estate in McKinley County, New Mexico, in exchange for 4,830 acres of Federal coal estate. The United States also acquired the mineral estate on 4,893 acres of land in the Chaco Culture National Historic Park, an area recognized as containing significant archeological and cultural resources. The exchange will allow both the United States and Cerillos Land Company to consolidate their holdings into minable tracts. This exchange is being challenged by coal trade organizations in Federal District Court as a violation of Section 2(c) of the MLA, which generally prohibits the issuance of Federal coal leases to common carrier railroads.

J-Y Ranch Exchange. The Department of the Interior is seeking to acquire a conservation easement on about 1,100 acres of land on the J-Y Ranch, which lies within the Grand Teton National Park, in exchange for Federal coal interests in northeastern Wyoming. An agreement signed by the Secretary and the owner of the J-Y Ranch in August 1985 describes the procedures to be followed in processing the exchange. The conservation easement would allow continued use of the property by the owner of the J-Y Ranch but would prohibit intensive development in the future. In late 1987 the owner of the J-Y Ranch donated his interests in the conservation easement to the Sloan-Kettering Institute for Cancer Research. As a result, the Department is now negotiating the exchange with Sloan-Kettering. The Department adopted an appraisal of \$5.6 million for the easement in FY 1987, and Sloan-Kettering is considering selection of Federal coal in the Young Creek-Ash Creek tracts in exchange. The selected coal land has not yet been appraised.

Whitney Benefits Alluvial Valley Floor Exchange. This application was filed under the authority of section 510(b)(5) of SMCRA. The private coal, consisting of two tracts containing approximately 1,326 total acres, is located in the Tongue River Valley about 10 miles north of Sheridan, Wyoming. The applicant would receive Federal coal of equal value in Wyoming in exchange for its coal. The exchange is currently in litigation in both the Wyoming Federal District Court and in the U.S. Court of Claims. In accordance with a District Court Order, the BLM offered an exchange tract to the applicant, but the applicant had not accepted the offer as of the end of FY 1987. The Wyoming District Court will not take any further action in the case until the Claims Court issues its ruling as to the value of any losses the applicant may have suffered as a result of SMCRA's prohibition on mining in AVF's.

2. Operations Activities

The BLM is responsible for ensuring that coal exploration and mining operations (which includes all activities that occur after issuance of a lease, license, or permit) are conducted in accordance with the MLA, the Mineral Leasing Act for Acquired Lands of 1947, related statutes and the implementing regulations in 43 CFR Part 3480, and various Indian leasing laws implemented in Title 25, Chapter I, of the CFR. Coal operations program requirements of the mineral leasing laws, including resource recovery and diligence, were significantly revised by the FCLAA. Accordingly, the coal operations program is mandated entirely by law and implemented by regulation. These requirements provide for oversight by verification of production of multi-billion dollar mining operations that generated 142.03 million dollars in Federal royalties in FY 1987. The BLM is also responsible for coal operations on Indian tribal and allotted lands and oversight of intermingled Federal, Indian, and private coal ownership in the same operation. The operations program includes responsibility for lease-term readjustments; exploration and resource recovery and protection plan review and approval; inspection and enforcement under the MLA requirements, their implementing regulations, and the terms and conditions of leases, licenses, and permits; production verification; diligent development and continued operation compliance monitoring; lessee-qualification review; LMU approval; bonding; suspensions; and all other actions occurring after issuance of a lease, license, or permit.

Solid Leasable Minerals System

The Solid Leasable Minerals System (SLMS), is a computerized data base that was developed to track all aspects of lease, license, and permit operations. All producing and nonproducing leases, licenses, and permits are continually monitored with SLMS data and statistics to ensure compliance with regulations and lease-term requirements and to ensure timely readjustment of the leases.

During FY 1987, the BLM performed Technical Procedures Reviews (TPR's) of the SLMS in Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming to determine how well these states were maintaining the data in the system. The BLM also began implementing a nationwide quality control program for the current SLMS data base. Additionally, the BLM began the Life Cycle Management process in an effort to replace or improve the current system.

Recoverable Coal Reserves TPR

During FY 1987, the BLM performed TPR's of the recoverable coal reserves verification efforts which concluded early in 1987. These reviews were conducted in Colorado, Montana, New Mexico, Utah, and Wyoming, and resulted in a confirmation of the reserves verification project, and helped to instill a better understanding of coal operations issues in every state.

Inspection and Enforcement

In FY 1987, the SMAT program continued to implement the recommendations in the Secretarial Report to the Congress on Royalty Management for Solid Minerals prepared according to section 303 of FOGPMA. Coal producing states were included in the SMAT inspections in furtherance of national uniformity and consistency in the implementation of the BLM's Inspection and Enforcement and Production Verification (I&E/PV) Policy and Guidelines.

The I&E/PV Policy and Guidelines outline requirements for: (1) certification for personnel inspecting coal mines; (2) mine-specific inspection and enforcement plans; (3) minimum inspection coverage by type of inspection; (4) inspection and enforcement recordation; and (5) SMATs to ensure uniform and consistent application of the guidelines. The Field Offices monitor all operations for compliance with laws, regulations, orders, notices, lease terms and conditions, special stipulations and approved mine or exploration plan requirements.

This policy and guidelines will ensure: (1) resource protection, accurate production reporting, and accurate application of royalty rate; (2) proper oversight of exploration and mining operations; (3) compliance with established requirements; (4) proper protection of the environment; (5) maximum economic recovery; and (6) proper abandonment of operations.

Production Verification

A primary goal of the Department's lease management and royalty programs is to ensure the proper identification, assessment, and collection of royalties due on coal production from Federal and Indian lands. The BLM is responsible for verification of reported coal production and ensuring identification of the proper royalty rate while MMS is responsible for assessment and collection of correct royalty amounts.

Production verification is the process of establishing the accuracy of mineral production reported for royalty payment. The process comprises two essential elements: (1) check reported production against mine and other records using the company method to determine accuracy of production measurement, and (2) make an independent engineering determination using one or more alternate methods to check the accuracy of the reported production. Discrepancies are reconciled in accordance with the irregularity and exception reporting procedures outlined in the BLM/MMS Memorandum of Understanding (MOU).

The significance of production verification will continue to increase considerably as Federal coal royalty revenues increase from increased production, and Federal lease readjustments occur, raising the royalty rate from a cents-per-ton to the statutory ad valorem rate. Several states are exploring the potential for computerizing production verification procedures and other methods of ensuring accuracy and reliability of the production verification program.

Solid Minerals Assistance Teams

SMATs monitor implementation of the national policy and guidelines to promote uniformity and consistency nationwide. SMATs are composed of Washington Office staff, technical personnel from the state being visited, and technical staff from at least one other state. Colorado and Utah were the two coal producing states visited by SMATs in FY 1987. The SMATs participated in a mine inspection and reviewed the mine-specific I&E/PV plans, inspection reports, SLMS data, and production verification procedures. No significant I&E/PV problems were found. Minor problems which were found were discussed with management and recommendations were made by the SMATs for resolution.

Regional Evaluation Teams

Four Regional Evaluation Teams (RET's) were established with a "core" group consisting of a supervisor, mining engineer, geologist, and an economist, as a result of the Secretary's commitments to the Linowes Commission. The responsibility of the RET's is to provide economic evaluations estimating fair market value or other economic determination for: (1) value of mineral rights or properties for lease, sale, exchange or conveyance; (2) commercial quantities determinations for coal PRLAs; (3) royalty rate reduction applications; (4) maximum economic recovery of minerals on lands to be offered for lease; and (5) appropriate royalty rate for underground mined coal.

Lease Suspension Guidelines

Guidelines for processing an application for suspension of a coal or other solid mineral lease were issued on June 15, 1987, addressing three types of suspensions: (1) suspension of operations and production in the interest of conservation under Section 39 of MLA; (2) suspension of operations where a lease cannot be operated except at a loss (only applicable to solid mineral leases or coal leases not yet subject to the FCLAA); and (3) suspension due to strikes, the elements, or casualties not attributable to the lessee (force majeure).

A suspension of operations and production suspends beneficial use of a coal or other solid mineral lease as well as payment obligations for rent and minimum royalty or other production requirements including those of FCLAA. By current regulation however, the 10-year diligent development timeframe is not extended.

Two Section 39 suspensions were already in effect at the beginning of FY 1987. In FY 1987, one force majeure suspension was approved affecting four Federal coal leases in Colorado. Two Section 39 suspensions of operations and production were directed by the U.S. District Court for the District of Montana in FY 1987, affecting two leases in Montana. Two Section 39 suspension applications were pending approval at the end of FY 1987.

Readjustment of Lease Terms and Conditions

Under the MLA coal leases are issued for a term of 20 years, subject to the right of BLM to readjust a lease's terms and conditions at the end of its primary term of 20 years, and at the end of each 10-year period thereafter, if the lease is extended. On August 4, 1976, FCLAA was enacted, dramatically changing the coal program. One of the provisions of this law was the mandate

to readjust Federal coal leases, that were issued prior to FCLAA, to FCLAA terms and conditions upon the first lease readjustment anniversary after FCLAA. The first coal lease readjustment after FCLAA subjects the lease to the requirements of diligent development, continued operation, the payment of royalty at the rate of 12 1/2 percent and an annual rental at the rate of \$3.00 an acre. By current regulation, the readjusted royalty rate for coal mined by underground methods is 8 percent, except that the authorized officer may determine a lesser amount, but in no case less than 5 percent if conditions warrant.

The BLM is readjusting all pre-FCLAA leases to the requirements of FCLAA and the regulations upon their first lease readjustment anniversary after FCLAA. The U.S. Court of Appeals for the Tenth Circuit affirmed this in its FMC Wyoming v. Hodel, and Coastal States Energy Corporation v. Hodel, decisions. See the readjustment section on page 38 in Part IV, Litigation in this report. The lease terms and conditions of 60 Federal coal leases were readjusted during FY 1987.

A sizeable portion of the 40.8 percent increase in reported royalties for FY 1987 is directly attributable to the increased production royalty rates required for coal leases at the time of readjustment. The royalty impacts of this high priority activity will continue to increase in proportion with the number of Federal coal leases readjusted.

Exploration Plans

The BLM receives and approves all exploration plans for unleased and leased Federal coal. Exploration plans must be consistent with the terms of the license or lease. The lessee must also satisfy the requirements contained in 43 CFR 3482.1(a) and certain reclamation provisions. Exploration plans may be modified as exploration proceeds. These exploration operations are monitored for compliance with the terms and conditions of the license or lease, the exploration plan approval stipulations, and the requirements of the statutes and their implementing regulations.

Resource Recovery and Protection Plans

The FCLAA established the requirements that lessees submit a resource recovery and protection plan within 3 years of the time the lease becomes subject to FCLAA. Prior to the commencement of mining operations, this plan may be revised as part of the submission of the permit application package to OSMRE or the State Regulatory Authority (SRA).

The BLM receives all resource recovery and protection plans for mining operations for Federal coal and recommends a Department position regarding approval. Prior to commencement of any mining operation on Federal coal, this plan, among other documents, must be approved. It must address the MLA requirements contained in 43 CFR 3482.1(c), must be consistent with the terms of the lease and permit, and may be modified as mining proceeds. The reclamation aspects of Federal coal mining are the responsibility of OSMRE, or the SRA if there is an approved State program and cooperative agreement. During FY 1987, 6 resource recovery and protection plans were processed.

Diligent Development

Section 7 of MLA requires that all leases subject to FCLAA achieve diligent development and, once diligent development has been met, maintain continued operation or pay advance royalty. Diligent development and continued operation are defined by regulation to be the production of coal in commercial quantities within time frames established in the regulations. Diligent development requires production of 1 percent of the recoverable coal reserves by the end of the 10th year after the lease becomes subject to FCLAA and continued operation requires a continuing obligation to produce 1 percent of the recoverable reserves annually. The BLM determines the recoverable coal reserves figure upon which this 1 percent amount is set. Leases not yet subject to FCLAA or the diligence provisions of 43 CFR 3483 are governed by lease-specific terms regarding minimum production or minimum royalty requirements. Enforcement of FCLAA diligence requirements is an integral part of operations activities. At the end of FY 1987, 413 of 552 Federal coal leases were subject to FCLAA requirements, and were monitored for compliance. Sixty leases which were readjusted in FY 1987 became subject to FCLAA requirements. One lease was terminated in Utah effective May 1, 1987, due to failure to produce commercial quantities within 10 years of becoming subject to FCLAA.

Logical Mining Units

Section 2(d) of MLA authorizes the establishment of LMU's. An LMU is a diligence mechanism which allows production crediting across coal lease boundaries to meet FCLAA diligence requirements for all Federal coal leases contained in an approved, producing LMU.

The formation of an LMU is a discretionary action made at the request of a lessee, based on lease-specific production and economic factors. By statute and regulation, an LMU is an area of land in which the coal can be developed in an efficient, economic and orderly manner as a unit. An LMU may consist of one or more Federal leases and may include non-Federal lands; however, all lands must be under the control of a single operator, be developed and operated as a single operation, be contiguous, and not exceed a total of 25,000 acres.

The BLM receives and approves all LMU applications. With the 1982 regulatory changes, lessees have been carefully weighing the advantages and disadvantages of having their Federal coal leases included in an LMU. Advantages include provisions to allow production occurring from anywhere within the LMU to be credited toward the diligent development or continued operation requirements of any Federal coal lease within the LMU. Additionally, inclusion of a nonproducing lease, which might subject a lessee to the Section 2(a)(2)(A) of MLA prohibition, in a producing LMU will allow the lessee to continue participating in the MLA leasing program. One potential disadvantage of having a lease included in an LMU is the 40-year mine-out requirement of MLA for LMU's. During FY 1987, 5 LMU's were approved and 15 applications for LMU's (including 72 leases) were pending at the end of FY 1987. There were 12 Federal leases included in the 5 approved LMU's, covering 12,540 acres, and containing approximately 695 million tons of recoverable coal reserves.

Royalty Rate Reduction

Under Section 39 of the MLA, the Secretary is authorized to reduce the royalty rate for coal below the minimum specified by statute or regulation for an entire leasehold or on any portion of the lease when it is necessary to encourage the greatest ultimate recovery, and in the interest of conservation of natural resources to promote development or when the lease cannot be successfully operated under the lease terms. Provisions of the law specify no circumstance requiring BLM to reduce a royalty rate and a royalty rate reduction will have no effect on the payment of advance royalty which is paid in lieu of continued operation.

The FCLAA specified a minimum royalty rate of 12 1/2 percent of the value of coal as defined by regulation, 43 CFR 3483.4, with an exception that the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations. Following the rulemaking process with public participation, the regulation at 43 CFR 3473.3-2 requires a royalty rate of not less than 8 percent of the value of the coal removed from an underground mine, except that the authorized officer may determine a lesser amount, but in no case less than 5 percent if conditions warrant.

In response to an August 1982 General Accounting Office (GAO) report, "Need for Guidance and Controls on Royalty Rate Reductions for Federal Coal Leases," GAO/EMD - 32-86, that was critical of certain procedures and contained GAO recommendations, BLM after public comment, amended regulations 43 CFR 3485.2(c)(2). This established the detail of information that must be submitted by an applicant for a royalty rate reduction.

Subsequently, BLM published in the Federal Register, Draft Revision, Royalty Reduction Guidelines for Federal Coal, Phosphate, Potassium, Sodium, Sulphur and Tar Sand Leases, 50 FR 6062, (Feb. 13, 1985). Comments received from this notice and from a public meeting held on April 3, 1985, in Denver, Colorado, were incorporated in new guidelines reflecting present Department policy. The guidelines became effective June 26, 1987.

Specifically, an applicant for rate reduction must meet two essential conditions to qualify under provisions of the statute, regulations and guidelines: (1) rate reduction would encourage the greatest ultimate recovery; and (2) rate reduction would be in the interest of conservation of natural resources. After qualifying under the above conditions, a rate reduction may be granted only whenever in the Secretary's judgment it is necessary to do so: (1) to promote development; or (2) whenever a lease cannot be successfully operated under the lease terms.

In the Peabody Coal Co. decision (93 IBLA 317), IBLA ruled that the limiting word is "necessary." Because royalty rate operates as a direct cost, a rate reduction would almost always promote development. The statute cannot be read to authorize rate reduction whenever doing so would promote development; it only authorizes such action where it is necessary (93 IBLA 327). BLM must find a reasonable probability that operations would cease or development, recovery or conservation of the resource would be jeopardized before it can even consider exercising its discretion to grant relief (93 IBLA 327). Any liberality in granting rate reductions would seriously undermine Congress' intent in establishing a minimum production royalty rate (93 IBLA 325).

The criteria in the guidelines for approval of rate reduction are to:

- (1) promote development by providing an incentive to extract resources that are not economically recoverable under current industry practice or that would be bypassed because of a differential in royalty rate with non-Federal leases that are part of the mining sequence (expanded recovery).
- (2) promote development by providing an incentive to extract resources that would be foregone when a mine ceases operations permanently (extension of mine life).
- (3) grant temporary relief for leases that cannot be successfully operated when it can be shown that lease operating costs have exceeded lease production revenue and this condition is projected to continue (unsuccessful operations).

Applications approved would receive a reduction in the royalty rate to 8 percent for surface-mined coal and 5 percent for underground-mined coal. Financial data will be required for unsuccessful operations and for expanded recovery and mine life extension when the automatic rate reduction is deemed insufficient. Under no circumstances will a rate be reduced below 2 percent.

"Bonus royalty" bid is a component of fair market value required by FCLAA. There is no authority for reduction of "bonus royalty" just as there is no authority to refund a "cash bonus." Section 39 of the MLA authorized reduction of the statutory minimum of the royalty rate (93 IBLA 318, 330 through 336).

BLM cannot disregard the fact that lessee's contracts with its customers provide for passing the royalty through to them. This fact is relevant to a determination of the necessity for royalty rate relief and must be considered (93 IBLA 318 and 341).

In no case may a royalty rate below the statutory minimum be prescribed as the initial or readjustment terms of any lease. The lease afforded must occur apart from establishment of the basic lease terms (93 IBLA 324-5).

Lessees who had applications pending for royalty rate reduction in July 1987 must submit new applications to comply with the new guidelines. No rate reduction will be granted without consultation with the State Governor.

B. MINERALS MANAGEMENT SERVICE

The MMS responsibilities in the Federal coal program focus upon the collection of royalties, rents and bonuses from Federal coal lessees.

Federal Coal Royalties Collection

The MMS is responsible for collecting the royalty payments for Federal coal leases. During FY 1987, 168.0 million tons of Federal coal were produced and 142.3 million dollars of Federal royalties were collected on coal production valued at slightly over 2.6 billion dollars (see Tables 3 and 4). This represents a slight increase of 2.5 percent in production and a 40.8 percent increase in royalty payments from FY 1986.

TABLE 3

PRODUCING LEASES, PRODUCTION, PRODUCTION VALUE AND ROYALTY PAYMENTS
BY STATE: FY 1987

State	Producing Leases		Production in FY 1987 (Thousand Tons)	Production Value (Thousand Dollars)	Royalty Value (Thousand Dollars)
	Number	Acreage			
Total	122	216,399	168,027	2,616,056	142,337
Colorado	27	34,003	8,765	171,422	15,032
Montana	13	30,848	22,864	359,638	38,986
New Mexico	6	11,354	3,225	79,185	10,325
North Dakota	10	10,362	6,057	56,035	5,366
Utah	37	42,457	12,853	367,855	19,722
Washington	1	241	554	15,590	117
Wyoming	28	87,134	113,709	1,566,331	52,789

NOTE: The statistics represent production and royalty reported during FY 1987 and adjustments made during FY 1987 for prior periods. The FY 1987 royalty management statistics may not represent actual production achieved in FY 1987 or the royalty accrued on that production due to adjustments for previous years. Estimated in part.

SOURCE: U.S. Department of the Interior, Minerals Management Service, Royalty Management Program.

TABLE 4

PRODUCING LEASES, PRODUCTION, PRODUCTION VALUE AND ROYALTY PAYMENTS
BY REGION: FY 1987

Region	Producing Leases		Production in FY 1987	Production Value	Royalty Value
	Number	Acreage	(Thousand Tons)	(Thousand Dollars)	(Thousand Dollars)
Total	122	216,399	168,027	2,616,056	142,337
Fort Union	11	11,162	6,121	56,919	5,477
Green River- Hams Fork	29	43,546	14,859	262,175	23,009
Powder River	28	88,678	129,236	1,801,696	82,587
San Juan River	6	11,354	3,224	79,185	10,325
Uinta-SW Utah	47	61,418	14,033	400,491	20,822
Other	1	241	554	15,590	117

NOTE: The statistics represent production and royalty reported during FY 1987 and adjustments made during FY 1987 for prior periods. The FY 1987 royalty management statistics may not represent actual production achieved in FY 1987 or the royalty accrued on that production due to adjustments for previous years. Estimated in part. Data in this table are used in Figure 1, page 4.

SOURCE: U.S. Department of the Interior, Minerals Management Service, Royalty Management Program.

On public domain lands, with the exception of Alaska, 50 percent of the royalties is returned to the State treasuries, 40 percent is placed in the Federal Reclamation Fund that was established by the Reclamation Act of 1902, and 10 percent remains in the U.S. Treasury's miscellaneous receipts. Ninety percent of the royalties from Federal coal leases in Alaska is returned to the Alaska State Treasury.

The Federal royalties amounted to an average of 5.4 percent of the production value of the coal in FY 1987, compared to an average of 4.4 percent in FY 1986. The difference between this average percentage and the current regulatory minimum royalty requirements of 12.5 percent for surface-mined coal and 8 percent on underground-mined coal on new and readjusted leases results from production taking place on leases issued before the conversion from a fixed cents-per-ton royalty to an ad valorem percentage royalty provision. The fixed cents-per-ton royalty lease-term provisions, which were frequently set at between 15.0 and 22.5 cents per ton, can only be increased at the time of readjustment of these lease terms.

Revision of Coal Product Value Regulations

The process of amending the product value regulations was initiated in response to recommendations contained in the January 1982 Linowes Commission Report. An advance Notice of Proposed Rulemaking was issued for public comment in January 1986. During this period, the Secretary established a Royalty Management Advisory Committee (RMAC), composed of representatives from States, Indian Tribes, and allottees, and from the coal, and oil and gas industries, to advise him on royalty management issues, including appropriate changes to DOI regulations regarding product value for royalty purposes.

Proposed coal valuation regulations were published in the Federal Register on January 15, 1987 (52 FR 1840-1856). Seventy-one written comments on the coal valuation regulations proposed in January were received at DOI by April 15, 1987. On July 9, 1987, and August 12, 1987, the DOI reopened the coal comment period for 14 days, and for 60 days, respectively. The 60-day formal comment period closed on October 13, 1987. The DOI is now in the process of evaluating all written comments in its development of a Further Notice of Proposed Rulemaking which is scheduled to be published in May 1988. The Senate Subcommittee on Mineral Resources Development and Production held oversight hearings on the proposed rules on November 16, 1987.

C. GEOLOGICAL SURVEY

The major coal-related activities of the GS during FY 1987 were those of the Coal Investigations Program, National Coal Resources Data System (NCRDS), the Evolution of Sedimentary Basins Program, and the Coal Hydrology Program.

The Coal Investigations Program consists of mapping, establishment of local and regional coal-bed stratigraphic and correlation networks, and coal-quality and coal-resource characterization assessments done on regional as well as detailed local levels. Data derived from these assessments and related studies are entered into the NCRDS, a computer-based resource data system. These data are available to support the Federal coal program. The Evolution of Sedimentary Basins Program is designed to conduct basic research for an integrated approach to the prediction and assessment of energy

resources in all major sedimentary basins including those containing Federal coal deposits. The Coal Hydrology Program consists of hydrologic data collection, areal studies, and research activities associated with the availability of water to support increased coal development and the impacts of such development on the hydrology. A description of these FY 1987 activities is presented in this section.

1. Coal Investigations Program

Regional Coal-Resource and Coal-Quality Characterization Activities - Regional coal-resource and coal-quality characterization activities provide critical information on the quality, quantity, and accessibility of coal for development and include baseline geologic information needed to reduce adverse environmental effects resulting from coal utilization. Coal-quantity and quality characterization shows the distribution and continuity of the coal resources as well as the variations in heating value, impurities, moisture, ash content, and trace-element concentrations. Data derived from these studies are compiled into regional maps for areas of priority interest for Federal coal lease sales and scientific information needs.

In FY 1987, regional geologic studies and coal resource characterizations were underway in all major coal basins west of the 100th Meridian and in the Appalachian Province. In addition, 20 State geologic agencies were cooperatively supported by the GS for the appraisal of their coal deposits in their States.

In support of the Federal coal program, emphasis in FY 1987 was placed on completion of coal-geology, engineering, and hazards studies for 10 regional maps of priority areas in the western Federal coal regions. Coal-quality studies included lignite in North Dakota and Montana; subbituminous coal in Wyoming, New Mexico, Colorado, and Montana; and bituminous coal in Colorado and Utah.

Topical Reports - Numerous topical reports and maps on research activities that are supportive of the work of the Federal coal program have been prepared and published by the GS. During FY 1987, about 50 reports on topical investigations supportive of the Federal coal program were prepared.

National Coal Resources Data System - In FY 1987, new data entry of approximately 50,000 stratigraphic records and 250 chemical analysis records was accomplished. The largest contribution came from cooperative programs with 20 State geologic agencies. Several State agencies completed coal resource assessment studies for selected areas through remote access to the NCRDS data base and software. An inventory of existing data was completed and software was acquired to improve the ability of the system to provide geologic and geostatistic models of the quality, quantity, and framework of coal deposits.

A new direction in assessing coal resources was begun in FY 1987. A pilot study to develop methodology to assess the availability of coal resources for development was carried out in eastern Kentucky in cooperation with the Kentucky Geological Survey. This pilot study has been successful and the GS will be extending the methodology in cooperation with Kentucky and other States to additional areas both in the eastern and western United States.

Evolution of Sedimentary Basins Program

The Evolution of Sedimentary Basins Program was implemented during FY 1985 in six major basins -- Central Appalachian, Anadarko, Powder River, Uinta/Piceance, San Juan, and North Slope of Alaska. Physical stratigraphic, biostratigraphic, sedimentologic, and paleoecological studies are providing an analysis of the geologic history of these basins including the formation and preservation of coal deposits. This program is expected to provide important regional information which will improve energy-resources characterization on Federal lands in the future.

2. Coal Hydrology Program

Water Resource Activities - The objective of the Survey's coal-hydrology effort is to assess hydrologic conditions and water-supply problems related to coal mining and land reclamation, as needs are identified jointly with State and local governments. Included are areal hydrologic investigations of surface and ground water, small watershed investigations, and water-quality studies in mined and reclaimed areas. In FY 1987, such activities were underway in 28 States. This work provides water-resources information essential to the preparation and review of applications for mining permits and reclamation plans by the coal industry. Water data collected by the GS and other Federal, State, and local agencies were indexed by the National Water Data Exchange (NAWDEX) managed by the GS Water Resources Division. Earlier indexed data have been used to produce a five volume "Index to Water Data Activities in Coal Provinces of the United States." These printed indexes are available free and contain information about surface-water quantity and quality, ground-water quality, and areal investigations and other data-collection activities. The GS has also completed a special series of reports describing the hydrology of the principal coal areas of the Nation. The series is comprised of 57 reports that present information on ground water, surface water, and water quality in the areas covered. Information about availability of the reports may be obtained from NAWDEX.

D. OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

The primary objective of the OSMRE is to protect society and the environment from the adverse effects of surface coal mining operations and to do so under conditions consistent with the Nation's need for energy. OSMRE's principal roles relative to Federal lands are to: (1) define policy and promulgate rules establishing performance standards and program administration processes; (2) review and process permit applications and mining plans, including such activities as are necessary for NEPA compliance, and recommend action on mining plans to the Secretary; (3) in States with approved State regulatory programs under Section 503 of SMCRA, negotiate State-Federal cooperative agreements for State regulation on Federal lands according to Section 523(c) of SMCRA; (4) in the absence of a State-Federal cooperative agreement, carry out the permitting, inspection and enforcement, and other functions of the regulatory authority as set forth in SMCRA; (5) provide oversight of State administration of the regulatory requirements under the terms of an approved State-Federal cooperative agreement; and (6) administer a program to designate Federal lands unsuitable for surface coal mining under the petition process specified in Sections 522(a) and (c) of SMCRA.

1. Petitions to Designate Areas Unsuitable for Surface Coal Mining

There were no petitions filed to designate areas unsuitable for surface coal mining on Federal lands in FY 1987.

2. State-Federal Cooperative Agreements

As of the end of FY 1987, the Secretary had entered into permanent program cooperative agreements with the States of Alabama, Colorado, Montana, New Mexico, North Dakota, Ohio, Utah, Virginia, West Virginia, and Wyoming to manage surface coal mining on Federal lands in accordance with OSMRE requirements. In addition, a cooperative agreement is being promulgated with the State of Illinois which is expected to be fully implemented in FY 1988.

3. Permit Application/Mining Plan Review

At the beginning of FY 1987, OSMRE had 42 permit applications pending review for which approval of a mining plan, or approval of a modification to an approved mining plan is required. During the year, 17 more were received and 18 mining plans or modifications were approved.

E. FISH AND WILDLIFE SERVICE

An objective of the FWS is to ensure that nationally important fish and wildlife resources receive adequate consideration in the development of the Nation's coal resources. Emphasis is placed on data gathering and analysis to identify potential areas of conflict and on assistance in developing alternatives that avoid or minimize losses or that provide opportunities for enhancement.

Most of the FWS activity in the Federal coal management program consists of providing technical assistance to the BLM during the planning phase of Federal coal leases and to the OSMRE during mining and reclamation operations, as well as during the restoration of Abandoned Mine Lands (AML).

The FWS conducts operational as well as research and development efforts on fish and wildlife impacted by coal development. Operational activities are implemented by its Ecological Services offices located in the Regions. Data support is provided by the Office of Migratory Bird Management and the National Wetlands Inventory.

Research and development activities are conducted by various Divisions of the FWS (i.e., Division of Wildlife and Fish Research, and Division of Technical Development). Research and development support is furnished by the National Ecology Center in Fort Collins, Colorado, and other elements of the FWS Research program.

1. Operations

Activity by the FWS at the field level in the Federal coal management program is concentrated in three FWS designated Regions: Region 2 in the Southwest, Region 4 in the Southeast, and Region 6 in the Rocky Mountain West and Northern Plains.

Region 2 reviewed 8 Federal mine plans, 12 state mine plans, and 6 AML projects. Twenty-five informal and one formal Section 7 of the Endangered Species Act of 1973, as amended, consultations for threatened and endangered species were conducted. Field-level technical assistance was provided routinely to regulatory authorities and the coal industry on recommended fish and wildlife studies, Best Technology Currently Available (BTCA) practices for fish and wildlife protection, and regulatory compliance procedures.

Region 4 assisted in the review of OSMRE and BLM proposed regulations to amend State and Federal coal programs.

Region 6 continued review of mine plan applications, modifications, and renewals. Region 6 also reviewed proposed amendments to State programs which affected fish and wildlife resources and worked with the State of North Dakota on development of performance standards for wetland reclamation. Region 6 provided assistance to the Colorado Division of Wildlife information needs for surface mining. The Salt Lake Fish and Wildlife Enhancement Office has been working extensively with the State of Utah and OSMRE on problems with the loss of raptor nests due to the collapse of escarpment and highwalls due to long wall mining. The FWS has provided guidance on monitoring requirements, permitting procedures, and protection of nests.

Assistance has been provided to the BLM District Offices, by review of Draft Environmental Impact Statements for North Dakota Coal Resource Management Framework Plans, development of unsuitability criteria and stipulations in Wyoming and Montana, and data adequacy in Colorado. The FWS has attended meetings of the Green River-Hams Fork and Powder River RCT's, as well as taking part in advisory subgroups pertaining to fish and wildlife resources.

Clinical case studies on prevention and mitigation of impacts on raptors continued in Colorado, Montana, Utah, and Wyoming. Studies indicate that steps can be taken to reduce and mitigate impacts.

2. Inventory Data Collection

Region 2 continued to inventory habitat use of proposed lease areas for species of high Federal interest. Currently, raptor nests (prairie falcons, golden eagles, and ferruginous hawks) are being monitored for nesting activities and success in the San Juan-Chaco coal area of New Mexico. Inventory efforts continued during FY 1987 on the Rio Puerco Resource area.

Region 6 has conducted raptor surveys in Colorado, Utah, and North Dakota.

F. DEPARTMENT OF AGRICULTURE - FOREST SERVICE

The USDA, Forest Service (FS), has land management planning responsibilities for lands under its jurisdiction. In addition, the Secretary of Agriculture must consent to the lease terms before a lease can be issued, and must consent to the approval of mining and reclamation plans which include Federal coal leases on National Forest (NF) lands.

The FS effort in FY 1987 included land and resource management planning, and responding to requests to review lease by applications, modifications, readjustments, relinquishments, exploration proposals, operating plans, and mine plan reviews.

1. Land and Resource Management Planning - Forest Plans for the following National Forests have been completed by the end of FY 1987: Medicine Bow, in Wyoming; Gunnison and White River, in Colorado; Fishlake, Dixie, and Manti-LaSal, in Utah; Daniel Boone, in Kentucky; George Washington and Jefferson, in Virginia; Allegheny, in Pennsylvania; Monongahela, in West Virginia; and Shawnee, in Illinois. The Forest Plans for the Bridger-Teton and the Wayne are scheduled to be finalized in 1988. The Forest Plans include a report on the application of the Unsuitability Criteria (43 CFR 3461).

2. Lease by Application - Lease applications responded to by the FS include:

<u>Location</u>	<u>Status</u>	<u>Quantity</u>
Daniel Boone NF, Kentucky	Pending	2
Daniel Boone NF, Kentucky	Completed	1

3. Modifications - Lease modifications responded to include:

<u>Location</u>	<u>Status</u>	<u>Quantity</u>
Medicine Bow NF, Wyoming	Completed	1

4. Readjustments - Lease readjustments responded to include:

<u>Location</u>	<u>Status</u>	<u>Quantity</u>
Gunnison NF, Colorado	Completed	6
Gunnison NF, Colorado	Pending	1
Gunnison/White R. NF, Colorado	Completed	1
Medicine Bow NF, Wyoming	Completed	7
Manti-LaSal NF, Utah	Completed	8
Manti-LaSal NF, Utah	Pending	2
Bridger-Teton NF, Wyoming	Completed	2

5. Relinquishments - Lease relinquishments responded to include:

<u>Location</u>	<u>Status</u>	<u>Quantity</u>
Gunnison NF, Colorado	Completed	1
White River NF, Colorado	Completed	1
Fishlake NF, Utah	Completed	1
Daniel Boone NF, Kentucky	Completed	1
Daniel Boone NF, Kentucky	Pending	3

6. Exploration Licenses - Exploration proposals responded to include:

<u>Location</u>	<u>Quantity</u>
Medicine Bow NF, Wyoming	4
Manti-LaSal NF, Utah	1
Daniel Boone NF, Kentucky	2

7. Operating Plans - Operating plans responded to include:

<u>Location</u>	<u>Quantity</u>
Fishlake NF, Utah	2
Manti-LaSal, Utah	3

8. Mining Permit/Mining Plan Reviews - The FS responded to mining proposals involving National Forest System lands as follows:

<u>Location</u>	<u>Quantity</u>
Medicine Bow, NF, Wyoming	5
Gunnison NF, Colorado	5
San Juan NF, Colorado	1
White River NF, Colorado	1
Fishlake NF, Utah	1
Manti-LaSal, Utah	6

G. DEPARTMENT OF JUSTICE

The U.S. Department of Justice (DOJ), submits a separate report to comply with section 8 of the FCLAA, which requires the Attorney General to report annually to Congress on "competition in the coal and energy industries" in conjunction with the U.S. Department of the Interior report on the Federal coal leasing program. One purpose is to provide the economic analysis that is a necessary foundation for the establishment of leasing policies that will promote competition and efficient development in the coal and energy industries. The report is to provide the basis for the analysis the DOJ employs in its review of Federal coal lease issuances, transfers, and readjustments under section 15 of the FCLAA and consequent advice to the Secretary of the Interior on whether any such action would "create or maintain a situation inconsistent with the antitrust laws." The intention of the report is to serve the dual functions of advising Congress of the present state of competition in the coal industry and indicating the competitive principles the DOJ applies in reviewing Federal coal lease issuances, transfers, and readjustments.

The first report, submitted in May 1978, defined relevant product and geographic markets and set forth an analytical framework for assessing the state of competition in the coal industry. The report found that coal markets in the United States were workably competitive. The report also enunciated the DOJ's policy of regarding any prospective lease issuance to a lessee with a share of uncommitted, nonfederal reserves in the relevant market in excess of fifteen percent as prima facie inconsistent with the antitrust laws. The report gave special attention to the competitive effects of participation in

the coal industry of firms that also compete in markets for petroleum or nuclear fuel. Conditions were set out under which such interfuel integration would pose a danger to competition. It was quite clear that these conditions were not met in the case of coal-petroleum integration; coal-nuclear fuel integration was found to pose a somewhat greater competitive danger. Accordingly, a more stringent lease review standard was applied to certain nuclear fuel companies under which a share of uncommitted, nonfederal reserves in the relevant market in excess of the 10 percent is considered prima facie inconsistent with the antitrust laws.

In May 1979, the second report updated several aspects of the first report's analysis and analyzed competition in coking coal markets. To the extent the available information permitted reaching any conclusions, coking coal markets were found to be workably competitive.

The third report, in November 1980, analyzed the competitive effects of railroad participation in western coal markets. The report found that there were several conditions that had to be met before participation by railroads in the western coal industry could pose a competitive problem. With the exception of one railroad, it was found that those conditions were not met. In the case of the one exception, Burlington Northern Inc., it was not clear whether the conditions were met. The DOJ concluded that, for reviewing Federal coal leases, all railroads would be treated the same as coal companies, but leases to Burlington Northern, Inc. would be given special scrutiny.

In March 1982, the fourth report, analyzed the competitive effects of participation of electric utilities in the coal industry, and found that there was a significant danger that electric utilities could circumvent rate regulation through integration into the coal industry. However, whether leasing to any particular utility posed a significant competitive danger depended on a host of regulatory issues unique to that utility. The conclusion stated that leases to electric utilities would be subjected to detailed case-by-case review.

The Department's fifth and sixth reports, submitted in December 1982 and April 1983, reconsidered two basic aspects of the first report's analysis. The fifth report focused on the delineation of relevant markets in which to assess the effects of Federal coal lease issuances. Applying the market-delineation principles embodied in the DOJ's Merger Guidelines, (2 Trade Reg. Rep. (CCH) pp. 4491-4495), the report concluded that there are three relevant markets in the area of the country in which virtually all Federal coal leasing will occur. Leases in the Fort Union region of Montana and the Dakotas will be analyzed in a Northern Plains Market that consists of those three states and the portion of the Powder River Region that is located in Wyoming. Leasing in the Denver-Raton Mesa, Green River-Hams Fork, San Juan, and Uinta-Southwestern Utah Regions of Colorado, New Mexico, Utah, and southern Wyoming will be analyzed in a Southwest Market that consists of the states of Arizona, Colorado, New Mexico, Utah, and the portion of the Green River-Hams Fork Region that is located in Wyoming. Finally, leases in the Powder River Region will be analyzed in a Powder River Market that consists of just that Region.

Also, the sixth report developed revised "universe" figures against which market shares in these three markets would be measured for the DOJ's lease reviews. The universe figures for uncommitted, nonfederal reserves are 56.1 billion tons in the Southwest Market, 42.7 billion tons in the Northern Plains Market, and 17.8 billion tons in the Powder River Market.

Together, these six reports comprise an analysis of competitive conditions in western coal markets and an explanation of the basic determinants of the DOJ's judgments in its statutory review of proposed Federal coal leases. During the last five fiscal years, there have been no developments that materially alter any of the analysis or the conclusions contained in these reports.

Section 15 of the FCLAA also requires the DOI to consult the DOJ "at each stage in the formulation and promulgation of rules and regulations concerning coal leasing." DOJ did not advise the Secretary that any of the lease issues, renewals, assignments or readjustments reviewed during FY 1987 would create or maintain a situation inconsistent with the antitrust laws. The DOJ also represents the DOI in all litigation involving Federal coal. This litigation is summarized in Part IV of this report.

IV. LITIGATION

A. BLM LITIGATION

1. Powder River Sale

Two lawsuits challenged the 1982 regional coal lease sale for the Powder River Region. The cases were originally filed in the U.S. District Court for the District of Columbia, where a motion for a restraining order against the lease sale was denied. On the government's motion, the cases were consolidated and transferred to the Federal court in Montana. The court heard arguments in December 1982 on cross motions for summary judgment and motions to dismiss specific allegations. The Montana court then separated the cases for decision.

In Northern Cheyenne Tribe v. Watt, Civil No. 82-116 (D. Mont.), the Tribe asserted that the EIS prepared for the sale was deficient because of its alleged failure to discuss adequately the effects of the proposed regional leasing on the plaintiff's reservation. On May 28, 1985, the court ruled in favor of the Tribe and declared void the leases issued in Montana as a result of the sale. The Department of the Interior petitioned the court for reconsideration of its order to cancel the leases. The lessees petitioned the court to intervene and for reconsideration. The court granted the motions for intervention, stayed its cancellation order and enjoined all lease operations. On October 6, 1986, the court granted the government's motion and (1) allowed one lessee to continue to mine its three mine-maintenance leases provided mining did not cause "significant socioeconomic impacts" on the Tribe and (2) directed the Secretary to suspend the remaining leases pending supplementation of the EIS and appropriate review of lease issuance, terms, and conditions. The Tribe appealed the October 1986 order to the U.S. Court of Appeals for the Ninth Circuit which heard oral argument in August 1987.

In National Wildlife Federation v. Burford, Civil No. 82-117 (D. Mont.), the plaintiff groups challenged the presale procedures and the sale itself. The plaintiffs alleged that the Department failed to receive fair market value for the lease tracts sold, that the land-use plans underlying the sale acreage were formulated in violation of statutory planning standards, that the Secretary's rules (and resulting plans) on the treatment of reclaimability in the Federal lands review under section 522(b) of the SMCRA are legally deficient, that certain changes in the treatment of surface owner consents were illegal, and that certain tracts were not delineated properly. The State of Wyoming and several lessees intervened as defendants. On September 3, 1985, the court ruled in favor of the Department on the tract delineation and surface owner consent issues, dismissed the allegations concerning reclaimability, and postponed ruling on the land-use planning and fair market value issues until the Department supplemented the administrative record, and the parties filed additional briefs. On September 22, 1987, the court granted summary judgment in favor of the government on the fair market value and land use planning issues. Plaintiffs have filed an appeal to the Ninth Circuit.

2. Coal Leasing Rules

In Natural Resources Defense Council v. Burford, Civil No. 82-2763 (D.D.C.), eight groups have joined to challenge the July 1982 revisions to the July 1979 coal program rules. The suit seeks: (1) to enjoin implementation of the revised coal regulations; (2) to declare the revised regulations improperly issued; and (3) to enjoin any future coal lease sales until the reclaimability standard of section 522(a)(2) of the SMCRA is applied to the lease tracts prior to a sale. In support of their lawsuit, the plaintiffs alleged that the Department, in amending the rules, violated NEPA and various provisions of the FCLAA, FLPMA, and SMCRA. The parties have filed and fully briefed cross motions for summary judgment.

After Secretary Hodel announced his decision on the coal program in February 1986, the court directed the parties to indicate the effect on the case of these decisions. The plaintiffs then agreed to dismissal of their NEPA allegations and to focus the issues on specific regulations and policies. Among the remaining issues are: (a) the limited use of pre-FLPMA land-use plans for coal leasing; (b) public participation in the coal leasing program; (c) the policy established in 1979 of determining reclamation suitability at the mine-permit stage rather than prior to leasing; (d) the diligent lease development requirements for coal leases issued prior to the Federal Coal Leasing Amendments Act of 1976; and (e) allowing extension of time to submit a mine plan for reasons beyond the lessee's control. Supplemental briefs have been filed and the case is ripe for decision.

3. Lease Readjustment

In FMC Wyoming Corporation v. Hodel, 816 F. 2d 496 (10th Cir. 1987), and Coastal States Energy Corporation v. Hodel, 816 F. 2d 502 (10th Cir. 1987), the U.S. Court of Appeals for the Tenth Circuit affirmed all but one of the Department's long-standing positions on coal lease readjustments. The Tenth Circuit later denied petitions for rehearing en banc in both cases. FMC petitioned the Supreme Court for certiorari on October 6, 1987. ^{1/} No. 87-560. Coastal did not petition for certiorari. Three other cases are pending before the Tenth Circuit on the same issues as those decided in FMC and Coastal. Lone Star Steel Co. v. Hodel, No. 86-2146; Gulf Oil Corp., et al. v. Clark, No. 87-2137; Ark Land Co. v. Hodel, No. 87-2790. In all three cases, the U.S. District Courts upheld the department's positions.

There are 12 coal readjustment cases currently pending in U.S. District Courts: 4 in Wyoming, 1 in Montana, 1 in Utah, 3 in Colorado, and 3 in the District of Columbia. Those cases are: Coastal States Energy Co. v. Hodel, Civil No. 85-665 (D. Utah); Consolidation Coal Co. v. Hodel, Civil No. 85-361 (D. Mont.); Meadowlark Farms, Inc. v. Hodel, Civil No. 87-0024B (D. Wyo); Powderhorn Properties Co. v. Hodel, Civil No. 87-350 (D. Colo.); Exxon Coal U.S.A., Inc. v. Hodel, Civil No. 87-0088 (D. Wyo.); General Electric Holdings Inc., et al. v. Hodel, Civil No. 87-979 (D. Colo.); Coastal States Energy Co., et al. v. Hodel, Civil No. 87-0293A (D. Utah); Peabody Coal Co. v. Hodel, Civil No. 87-1359 (D.D.C.); Ark Land Co. v. Hodel, Civil No. 87-0254K (D. Wyo.); Colowyo Coal v. Burford, Civil No. 87-2325 (D.D.C.); Western Fuels-Utah Inc. v. Hodel, Civil No. 87-2669 (D.D.C.); and Bear Coal Co., Inc. v. Hodel, Civil No. 87-M-1493 (D. Colo). All involve the same issues as those decided in FMC and Coastal.

^{1/} On January 26, 1988, the Supreme Court denied this petition.

The leases in all these cases were issued under section 7 of the MLA, which made them subject to the discretionary right of the Secretary to readjust the terms and conditions of the leases, including royalty provisions, at the end of 20 years "unless otherwise provided by law." 30 U.S.C. S. 207 (1970). In 1976, Congress passed the Federal Coal Leasing Amendments Act of 1976 (FCLAA). In section 6 of FCLAA, Congress amended section 7 of the MLA and changed several terms which must be included in Federal coal leases. One of the most significant changes was to increase the statutory minimum production royalty rate for surface-mined coal from 5 cents per ton to 12-1/2 percent of the value of the coal. Amended section 7 did not expressly state, however, that pre-FCLAA coal leases were subject to these new terms. The Solicitor concluded that the Department is required by law to include the new FCLAA section 6 terms in pre-FCLAA coal leases upon their first post-FCLAA readjustment. Solicitor's Opinion M-36939, 88 I.D. 1003 (1981).

BLM notified all of the lessees in all the above-referenced cases of its intent to readjust their leases prior to the 20-year anniversary dates, although for some the proposed terms and conditions were sent after the anniversary dates and for others, the BLM decision on the lessee's objections to the proposed terms and conditions was issued after the date. The timeliness of the readjustments and the new terms on these leases were affirmed by the IBLA. The suits for judicial review followed.

The two principal positions upheld by the Tenth Circuit in FMC and Coastal are: (1) notice of intent to readjust the terms of a coal lease issued prior to passage of FCLAA which is sent by BLM to the lessee on or before the 20-year anniversary date of the lease "preserves the Department's right to readjust the terms within a reasonable time thereafter" even if the proposed terms are not sent or made final until after the anniversary date; and (2) the minimum 12-1/2 percent production royalty rate added to section 7 by FCLAA for surface-mined coal, and other mandatory lease terms added by FCLAA, must be included in pre-FCLAA coal leases on their first post-FCLAA readjustment. In Coastal, the court also affirmed as reasonable the 8 percent production royalty rate for underground coal established by the Department in 43 CFR 3473.3-2(a)(3). However, the court then held that the provision of this regulation which allows a lesser production royalty rate of not less than 5 percent for underground coal "if conditions warrant" must be considered by the Department at the time of readjustment. The Department is currently implementing this portion of the Coastal decision.

4. Preference Right Lease Applications

In NRDC v. Berklund, Civil No. 75-0313 (D.D.C. October 26, 1987), the court entered an order ratifying a settlement agreement reached between the Department and five environmental groups regarding environmental issues associated with the processing of coal preference right lease applications (PRLAs). The new order amended the court's order in NRDC v. Berklund, 458 F. Supp. 925 (D.D.C. 1978), aff'd, 609 F.2d 553 (D.C. Cir. 1979), in which the court held: (1) under former section 2 of the Mineral Leasing Act, 30 U.S.C. S. 201 (1970) (repealed by the FCLAA, except for existing PRLAs), the Secretary did not have the discretion to deny issuance of a preference right lease on environmental grounds to an applicant who had demonstrated a discovery of coal in commercial quantities; and (2) under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. S. 4331 et seq., the Secretary was required to complete an environmental impact statement for any

PRLA where issuance of a lease would be a major Federal action significantly affecting the human environment. The amended court order ratified new NEPA and other PRLA processing rules published in the Federal Register, 52 FR 25794 (July 8, 1987) (to be codified at 43 CFR Part 3430). In exchange for the Department's agreement to process PRLAs under these revised procedures, the five groups agreed not to contest the 13 preference right leases issued since the 1978 order or to contest on procedural environmental grounds the remaining PRLAs if the Department complies with the new regulations. The settlement and amended court order concluded over four years of negotiation and allows the Department to begin adjudicating the remaining 109 PRLAs.

5. Federal Coal Under Allotted Lands

Several Navajos owning allotted land in New Mexico have filed a class action in Etcitty, et al. v. United States, et al., Civil No. 83-1408C (D. New Mexico, filed August 31, 1983), seeking, inter alia, a declaration of rights for all Navajo Indians who hold beneficial title to any interest in allotted lands in New Mexico held in trust by the United States, where the trust patent states that the United States reserves any coal interest. Plaintiffs primarily claim that the mineral reservations in the patents were made contrary to the Dawes Act authorizing the allotments. A class action has been certified by the court for this issue. They also claim that they are entitled to a supplemental patent for lands conveyed with a coal reservation, pursuant to the Act of April 14, 1914, 30 U.S.C. Section 82 (1982), where lands covered by the trust patents were subsequently classified as non-coal in character. Codefendants include holders of PRLAs for the Federal coal underlying the allotted surface. Various procedural motions are pending with the court.

6. Navajo Reservation Litigation

The Navajo Tribe sought a determination that approximately 1.8 million acres of land reserved to the Navajo by Executive Orders Nos. 709 (November 9, 1907) and 744 (January 28, 1908), but returned to the public domain by Executive Order Nos. 1000 (December 30, 1908) and 1284 (January 16, 1911), are still part of the present Navajo Reservation. Navajo Tribe of Indians v. State of New Mexico, et al., Civil 82-1148-JB (D. New Mexico). The Tribe also sought a judgment that the United States breached a fiduciary duty to the Tribe by treating the land as part of the public domain and a judgment that all conveyances by the United States subsequent to Executive Orders 709 and 744 be cancelled. Finally, the Tribe asserted a claim for trespass damages against all present owners of the land.

The district court dismissed the case for lack of jurisdiction in December 1983, and the U.S. Court of Appeals for the Tenth Circuit affirmed the dismissal by decision dated January 9, 1987. 809 F.2d 1455.

7. Alluvial Valley Floor Exchange

Whitney Benefits, Inc. v. Hodel, No. 84-0193 (D. Wyoming) and Whitney Benefits, Inc. v. United States, No. 84-614 (Ct. Cl.) arise from the same set of facts. Plaintiff owns a tract of coal in Wyoming for which it has pursued an exchange under the Surface Mining Control and Reclamation Act (SMCRA). A portion of the tract has been deemed unsuitable for mining due to its location in an alluvial valley floor (AVF). In the district court case, plaintiff

seeks to compel an exchange. The Court found for plaintiff that BLM had unduly delayed, and ordered that the exchange be completed by August 31, 1985. BLM then determined that the coal had a negative value of 79 million dollars and declined to proffer Federal coal in exchange. On December 3, 1985, the District Court for the District of Wyoming ruled (Civil No. 84-0193) that the exchange must be completed. Civil No. 84-0193. BLM has tendered a tract of Federal coal to the plaintiff in compliance with the Court's order. Plaintiffs objected to the tender as insufficient. The case is now stayed pending a decision by the Claims Court. In the Claims Court case, plaintiff seeks compensation for the "taking" that occurred when its land was found to be located in an AVF and was thus rendered unmineable under SMCRA. This case is fully briefed and a decision is expected in early 1988.

8. Other Exchanges Involving Coal Lands

Three land exchanges which BLM has negotiated with railroad affiliates are the subject of litigation by the National Coal Association (NCA). One is also the subject of litigation by Northern Plains Resource Council.

In its lawsuits, NCA argues that: (1) the exchanges are not within the contemplation of section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. S. 1716; (2) the exchanges are barred by section 2(c) of the Mineral Leasing Act, 30 U.S.C. S. 202, which regulates issuance of coal leases to common-carrier railroads; and (3) FLPMA requires consideration of the impact of the proposed exchanges on competition in the coal industry. The "Corral Canyon" exchange in Wyoming involved Rocky Mountain Energy Co., a subsidiary of Union Pacific Corp. The U.S. Court of Appeals for the D.C. Circuit ruled in the Department's favor on all issues. National Coal Association v. Hodel, No. 85-6090 (D.C. Cir. August 11, 1987). The "Circle West" exchange in Montana involves Meridian Land and Mineral Co., a subsidiary of Burlington Northern, Inc. The U.S. District Court for the District of Montana has held that NCA is collaterally estopped from litigating in the Montana Federal court the issues it lost in the District of Columbia Federal court. National Coal Association v. Hodel, Civil No. 85-115 (D. Mont. October 28, 1987). The "Lee Ranch" exchange in New Mexico involves the Cerrillos Land Co., a subsidiary of Santa Fe Industries. National Coal Association v. Hodel, Civil No. 87-1015 (D.N.M. filed August 10, 1987). No briefs have been submitted to the court as yet.

The Northern Plains Resources Council, in its case challenging the "Circle West" exchange, alleges that in consummating the exchange the Secretary did not comply with the National Environmental Policy Act, the planning, public interest, and equal value requirements of FLPMA, and the Administrative Procedure Act. Northern Plains Resource Council v. Hodel, Civil No. 85-150 (D. Mont.). This case was consolidated with NCA's challenge to the "Circle West" exchange. The Montana Federal court also ruled in the government's favor on these issues.

B. OSMRE FEDERAL LANDS LITIGATION

1. National Wildlife Federation et al. v. Hodel No. 84-5743 (D.C. Cir.) (In Re: Permanent Surface Mining Regulation Litigation II)

Several groups challenged the Secretary's Federal lands regulations at 30 CFR Parts 740-746, promulgated to implement SMCRA. The regulations allow States to assume regulatory authority for surface coal mining and reclamation

operations on Federal lands. The Secretary retains his responsibility to approve mining plans on Federal lands, to designate certain Federal lands as unsuitable for mining, and to regulate other activities on Federal lands. A mining plan is defined as the plan required under the Mineral Leasing Act of 1920, as amended (MLA), to mine leased Federal coal. The plaintiffs argued that these rules illegally delegated the Secretary's responsibilities under MLA and SMCRA.

On July 6, 1984, the U.S. District Court for the District of Columbia rendered a decision holding that portions of the Secretary's regulations governing Federal lands were inconsistent with SMCRA and remanded those regulations to the Secretary for further action consistent with the Court's decision. Specifically, the Court invalidated the Secretary's regulation at 30 CFR 740.5, which limited the Secretary's duty to approve mining plans under the MLA. The Court also held that the Secretary must exercise his power to review the operation and reclamation plan portions of permit applications under SMCRA to mine on Federal lands, but the State regulatory authority in fully delegated cooperative agreement States has the authority to issue permits for surface coal mining and reclamation operations on Federal lands.

The Secretary continues to make the necessary findings pursuant to MLA, SMCRA, NEPA, and other Federal acts and regulations, and now approves a mining plan approval document for the operation. Existing Federal permits in fully delegated cooperative agreement States are being phased out either at the midterm permit review stage or at the time of a major permit revision.

The Secretary appealed to the U.S. Court of Appeals for the District of Columbia Circuit from the District Court's rejection of the regulatory definition of mining plan, as referenced in Section 532(c) of SMCRA, among other things. The appeal is still pending.

V. MAJOR ISSUES FOR 1988

A. REGIONAL LEASING OUTLOOK

There was limited competitive Federal coal leasing in FY 1987. This was a reflection of market conditions, the limited interest of the industry in acquiring new mine tracts, and the shift of Bureau priorities, given its finite resources, to coal lease maintenance and non-competitive leasing activities, that is, to processing lease exchanges and coal PRLAs.

As a result of the limited interest in new leasing expected in the next few years, some or all of the regional coal teams are expected to seriously consider recommending decertification of their respective Federal Coal Production Regions in FY 1988. Such an action by an RCT, if accepted by the Department, would result in a shift from regional leasing to leasing by application in the affected regions. The Southern Appalachian RCT took this action with respect to the Alabama subregion in FY 1987. The RCT's could continue to operate in decertified regions, providing advice to BLM State Directors on lease application issues and monitoring market conditions in the regions. Should market conditions improve in the future, the RCT's could then recommend a return to regional leasing.

Each RCT is scheduled to meet early in FY 1988. In addition to considering a switch to leasing by application, the RCT's will address the need/development of a long-range regional lease sale plan. With the exception of the Powder River RCT, which has completed its standards and guidelines, each RCT will also oversee the development and publication of regional data adequacy standards and guidelines. As members of the Federal-State Coal Advisory Board (FSCAB), the RCT members will attend a Dec. 2, 1987, annual meeting and prepare a recommendation to the Secretary on a long-range Departmental lease sale plan.

During FY 1988 each RCT will also monitor the progress of PRLA processing, consider preference right leasing and its effect on regional leasing needs, and examine existing leases, mines, and Federal coal tracts that might be bypassed unless leased to determine which might be relinquished or needed to fill-out logical mining units.

B. PRLAs

The Bureau expects to resume the expeditious processing of coal PRLAs this fiscal year. During the third and fourth quarters of FY 1987, some requests for additional information were sent to certain preference right lease applicants. During FY 1988, individual BLM State Offices expect to begin the preparation of EIS's in accordance with the revised processing procedures and to complete the final showing analyses on certain PRLAs so that decisions can be made on whether to issue preference right leases or reject PRLAs for failure to demonstrate the existence of coal in commercial quantities. See Table 2 for coal PRLA activity during FY 1987.

C. SECTION 3 of FCLAA (Section 2(a)(2)(A) of MLA)

The BLM published in the Federal Register final rules relating to the implementation of Section 2(a)(2)(A) of MLA (Section 3 of FCLAA) (51 FR 43910, December 5, 1986). Section 3 of FCLAA provides that no onshore Federal lease

may be issued under MLA to any entity that holds, and has held for 10 years, a Federal coal lease that is not producing in commercial quantities. The deadline for compliance was December 31, 1986. The BLM is required to ensure compliance for all subsequent onshore leasing actions according to MLA. The BLM monitors lessee compliance with Section 3 on a weekly basis, as a cross-check against self-certification statements that are submitted to BLM as part of lessee qualifications.

In FY 1987, one bill (S. 1120) addressing Federal coal management issues was introduced in Congress. If enacted, the bill would have amended Section 2(a)(2)(A), among other FCLAA provisions. The bill would have limited the Section 2(a)(2)(A) lessee-qualification provision to Federal coal leases that had not been mined out. The bill generally would have required lessees wishing to hold Federal coal leases for more than 10 years to pay a holding fee on noncompliance Federal coal leases. The Department has supported the addition of an optional holding fee that current lessees may elect to pay on noncompliance Federal coal leases existing on or after December 31, 1986. The holding fee would be a provision of all new and readjusted leases. The Department has recommended against the two different concepts of escalating payments in lieu of production for diligent development over years 11 through 20.

D. Proposed Regulations on Coal Lease Readjustments

The rules at 43 CFR 3451 set out the general requirements for the readjustment of Federal coal leases that the BLM utilizes in implementing the statutory mandates of the MLA. Revisions to two portions of that rule are being proposed at this time. These revisions provide: (1) that Federal coal lessees shall not be permitted to file objections to those readjusted lease terms and conditions that are mandated by statute or required by regulation; and (2) that readjusted rental and royalty rates are due and payable as of the effective date of the lease readjustment and are no longer allowed to accrue during the pendency of an appeal to the IBLA. However, the proposed rule does not alter the ability of a lessee to object to discretionary lease readjustment terms or conditions. The proposed rule was published in the Federal Register on December 8, 1987 (52 FR 46499).

E. Revisions to Coal Exploration and Operations Rules (43 CFR Part 3480).

The BLM is considering possible revisions to the Coal Exploration and Operations Rules (43 CFR Part 3480). Some revision is necessary based on minor problems that have arisen during the last 5 years since the rules were published final (30 CFR Part 211, 47 FR 33179, July 30, 1982, redesignated at 43 CFR Part 3480, 48 FR 41589-41594, September 16, 1983).

These revisions pertain to operations issues, but will ultimately impact many aspects of the BLM coal management program. The primary areas of consideration will be 43 CFR Part 3450--Management of Existing Leases (lease readjustments, cancellations and relinquishments); Part 3470--Coal Management Provisions and Limitations (e.g., rent, royalty, and bonding); and Part 3480--Coal Exploration and Mining Operations (e.g., diligent development, continued operation, and advance royalty). There will also be minor grammatical changes to Part 3400--General and 3410--Exploration Licenses as well as an overall consolidation and restructuring of subject matter.

F. Underground Coal Royalty Rate

During FY 1987, the Department initiated a study to determine the appropriate royalty rate to be applied to underground coal leases at the time of lease readjustment. This study is still ongoing. A decision with respect to this issue is anticipated during FY 1988.

G. Section 7 of MLA (Section 6 of FCLAA)

Section 7 of MLA provides that each Federal coal lease must be producing in commercial quantities at the end of 10 years or the Federal coal lease is terminated. Section 7 also requires that each Federal coal lease be subject to the conditions of diligent development and continued operation. The condition of continued operation may be relieved by payment of advance royalty in lieu thereof or by force majeure suspension (where operations are interrupted by strikes, the elements, or casualties not attributable to the lessee). Finally, Section 7 requires that an operations and reclamation plan be submitted within 3 years for each Federal coal lease that becomes subject to MLA, as amended by FCLAA, by issuance, readjustment, or modification.

By regulation, the conditions of diligent development and continued operation are satisfied by production in commercial quantities. Commercial quantities is also defined in regulation as being 1 percent of the recoverable coal reserves. Also, by regulation, the "operations and reclamation plan" of Section 7(c) of MLA has been termed the "resource recovery and protection plan." This is because the title more accurately reflects the mandate of MLA which requires maximum economic recovery of the coal. An approved resource recovery and protection plan does not constitute permission to commence mining operations. Approval of a resource recovery and protection plan is an assurance that the proposed mining operations will satisfy the requirements of MLA for the life-of-the-mine. Authorization to commence mining operations requires obtaining approvals from all necessary Federal, state, and local authorities.

In FY 1987, one bill (S. 1120) addressing Federal coal management issues was introduced in Congress. If enacted, the bill would have amended Section 7, among other MLA provisions. The bill would have allowed the 10-year diligent development period to have been extended through "a substantial investment" or through the annual payment of "diligent development advance royalties based on the production royalty which would otherwise be paid and assessed on assumed annual production of 0.3 per centum of total recoverable reserves." "Substantial investment" would have been defined as an expenditure of "not less than 5 cents per ton of recoverable coal reserves for exploration or planning under the lease or for development and construction of operating facilities in the mine plan area for mining on the lease, or any combination of the foregoing, together with submission of an application for approval of a permit to mine, issued according to section 506 of SMCRA, containing information addressing each application requirement of the applicable regulatory program administered according to SMCRA and containing all information necessary to initiate processing and public review."

If the Federal coal lease was still not producing at the end of 15 years, it would be terminated unless the lessee wished the Federal coal lease to be extended by making a substantial investment in the lease and through payment of diligent development advance royalties based on the production royalty

which would otherwise be paid and assessed on assumed annual production of 0.7 percent of the total recoverable reserves. The bill would have also eliminated the 3-year resource recovery and protection plan requirement, allowing the MLA plan to be submitted at the time that a permit application package is submitted according to SMCRA.

In summary, S. 1120 would have required lessees wishing to hold a Federal coal lease for more than 10 years to pay a holding fee on noncompliance Federal coal leases. The Department has supported the addition of an optional holding fee that current lessees may elect to pay on nonproducing Federal coal leases. However, the Department has recommended against the two different concepts of escalating payments in lieu of production for diligent development over years 11 through 20.

In FY 1987, one Federal coal lease was terminated pursuant to Section 7. That Federal coal lease had failed to produce any coal within 10 years of its being issued on May 1, 1977. It is estimated that none of the existing Federal coal leases will reach the end of being subject to FCLAA for 10 years during calendar year (CY) 1988. Based on the number of Federal coal leases that have been issued, readjusted, or modified since enactment of FCLAA and that are not yet or are no longer producing, it is estimated that 6 more Federal coal leases could terminate in CY 1989, 18 in CY 1990, 18 in CY 1991, and 13 in CY 1992. This estimate is predicated on the assumption that these Federal coal leases will continue to remain in a nonproducing status until the 10 years has expired.

H. Internal Control Review (ICR) on I&E/PV

In FY 1988, the Bureau plans to conduct an ICR of the I&E/PV program to determine if field offices are in compliance with the policy and guidelines. The ICR will be conducted in accordance with A-123 procedures and will probably be in conjunction with the ongoing SMAT visits.

APPENDIX A

COAL STATISTICS

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COAL STATISTICS
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TABLE A-1

FEDERAL COAL LEASES ISSUED DURING FY 1987

State	Effective Lease Date	Lessee(s)	Tract Name	Serial Number	Acreage	Estimated Recoverable Reserves (Mil. Tons)	Royalty Rate (Percent)	Bonus Bid (\$/ Acre)
Colorado	09/01/87	Western Fuels, Utah Inc.	Deserado	C44693	344	2.100	8.0	100.00
Kentucky	04/01/87	Cairnes Coal Co.	Davisburg	ES34711	1,090	3.850	8.0	100.00
	04/01/87	Apollo Fuels, Inc.	Ferndale	ES35269	654	1.131	8.0	100.00
Montana	12/01/86	Peabody Coal Co.	Big Sky	M63202	110	1.660	8.0	909.09
North Dakota	12/01/86	Coteau Properties	Freedom	M68608ND	160	2.900	12.5	100.00
Utah	12/01/86	Genwal Coal Co.	Crandall Canyon	U54762	<u>256</u>	<u>.890</u>	8.0	214.46
Total					2,614	12.531		

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations,
Solid Leasable Minerals System, September 30, 1987.

TABLE A-2

LEASES SOLD IN ALL REGIONAL SALES 1/ 2/
(January 1981 through September 1987)

REGIONS	DATE OF SALE	NO. OF TRACTS	ACRES	ESTIMATED TOTAL RECOVERABLE RESERVES (In Mil. Tons)	TOTAL HIGH BONUS BIDS
Green River/ Hams Fork	January 1981	6	11,283	87.9	1,730,277
	April 1981	2	5,572	64.4	9,013,430
	October 1981	1	5,974	62.7	1,792,227
	April 1982	2	4,262	112.4	23,164,125
	Total to Date	11	27,091	327.4	35,700,060
Powder River	April 1982	10	16,554	1,089.6	43,484,434
	October 1982	2	5,176	471.6	23,689,632
	Total to Date	12	21,730	1,561.2	67,179,066
Southern Appalachian	June 1981	6	5,040	24.3	180,537
	December 1981	4	3,629	7.3	623,605
	September 1982	3	1,520	1.1	247,114
	Total to Date	13	10,189	32.6	1,051,256
Uinta Southwestern Utah	July 1981	5	10,854	79.7	14,200,410
	February 1982	1	160	2.3	158,400
	May 1982	1	640	7.5	5,216,00
	February 1984	1	4,999	36.7	9,542,041
	Total to Date	8	16,653	126.2	29,116,851
TOTAL ALL REGIONS	To Date	44	75,663	2,047.4	\$133,047,233

NOTE: Data may not add to totals shown due to independent rounding.

1/ These sales are the result of coal activity planning in designated Federal coal production regions.
Does not include emergency or lease by application sales.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations,
Solid Leasable Minerals System, September 30, 1987.

TABLE A-3 1/

AVERAGE HIGH BONUS BIDS FROM ALL REGIONAL SALES

Region	Total Acres Sold	Total High Bonus Bids (In Dollars)	Avg. Bid (\$/Acre)	Estimated Total Recover. Reserves Sold (In Mil. Tons)	Avg. Bid (Cents/Ton)	Avg. FOB Mine <u>2/</u> Per Ton of Coal (In Dollars)	Percent of <u>3/</u> Coal Price	Avg. BTU (Per Pound)	Avg. High Bonus Bid (Cents/Mil. BTU <u>4/</u>)
Green River-Hams Fork	27,091	35,700,060	1,318	327.4	10.90	20.00	.545	10,250	.531
Powder River	21,730	67,179,066	3,092	1,561.2	4.30	7.50	.573	8,250	.261
So. Appalachian	10,189	1,051,256	103	46.2	2.29	30.00	.076	12,500	.092
Uinta-SW Utah	16,653	29,116,851	1,748	126.2	23.01	28.00	.821	12,300	.935

1/ All bids in the September 1983 Fort Union regional lease sale have been rejected or withdrawn. The results from this sale have been omitted from this table.

2/ Average price of coal sold at the mine.

3/ Cents/ton divided by average mine mouth selling price per ton of coal = percent of coal price.

4/ Average BTU/LB. x 2000 = BTU/ton divided by 1,000,000 = cents/ton divided by MM BTU/ton = cents/MM BTU.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1986, and Coal Week, McGraw-Hill, Inc., Washington, D.C., February 7, 14, 28, and March 7, 1983, Vol. 9 No. 7 through No. 10.

TABLE A-4
LEASES SOLD IN ALL LEASE-BY-APPLICATION SALES
(January 1979 through September 1987)

State	No. of Tracts	Acres	Estimated Total Recoverable Reserves*	Total High Bonus Bids
Alabama	5	1,970	2.01	\$ 158,025.00
Colorado	15	6,706	50.36	1,226,042.20
Kentucky	6	5,146	12.41	493,030.00
Montana	5	1,538	47.86	135,700.00
New Mexico	2	4,016	76.28	118,592.00
North Dakota	6	2,688	27.46	129,500.00
Oklahoma	5	1,688	3.81	227,186.50
Utah	8	4,607	48.51	4,066,277.00
Virginia	1	251	0.30	27,610.00
Wyoming	7	12,710	157.77	3,283,588.00
Total all	60	41,320	426.77	\$ 9,865,550.70

*Million tons

Source: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1987.

TABLE A-5
SURFACE ACREAGE AND
RECOVERABLE RESERVES BY STATE:
SEPTEMBER 30, 1987

State	No. of Leases	Estimated Total Recover. Reserves (In Mil. Tons)	Total Acres	FEDERAL LANDS			State	Private	Native American
				BLM	FS	Other			
<u>TOTAL</u>	552	15,657.5	806,984	367,045	72,864	1,226	30,758	326,879	8,210
Alabama	18	33.2	14,348	890				13,458	
Alaska	2	W	3,160	3,160					
California	1	W	80	80					
Colorado	111	2,066.2	132,245	60,883	12,824			58,531	
Kentucky	10	14.8	6,355		4,511		1,744	99	
Montana	26	1,276.8	48,432	1,377	80		2,148	44,828	
New Mexico	28	426.1	40,860	16,965			7,086	8,598	8,210
North Dakota	18	228.5	15,719	40				15,679	
Oklahoma	40	171.1	65,881	890				64,992	
Oregon	3	W	5,411	538	4,874				
Pennsylvania	2	W	80			80			
Utah	201	3,622.3	277,495	196,477	44,530	22	19,218	17,247	
Virginia	1	W	251		251				
Washington	2	W	521				241	280	
Wyoming	89	7,756.5	196,147	85,746	5,793	1,123	320	103,166	

W - Withheld to protect proprietary data.

NOTE: Details may not add to totals due to rounding and non-inclusion of proprietary reserve data.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations,
Solid Leasable Minerals System, September 30, 1987.

TABLE A-6
SURFACE ACREAGE AND
RECOVERABLE RESERVES BY REGION:
SEPTEMBER 30, 1987

Region	No. of Leases	Estimated Total Recover. Reserves (In Mil. Tons)	Total Acres	FEDERAL LANDS			State	Private	Native American
				BLM	FS	Other			
<u>TOTAL</u>	552	15,657.5	806,984	367,045	72,864	1,226	30,758	326,879	8,210
Fort Union	19	247.9	16,519	40				16,479	
Green River- Hams Fork	97	1,870.0	137,018	85,772	400	1,124	80	49,639	
Powder River	75	8,609.5	170,715	17,763	5,393		2,388	145,172	
San Juan River	27	427.5	40,999	16,965			7,046	8,777	8,210
So. Appalachian	18	33.2	14,348	890				13,458	
Uinta-SW Utah	248	4,216.0	344,285	240,869	57,354	22	19,218	26,819	
Other	68	253.3	83,102	4,748	9,717	80	2,025	66,535	

NOTE: Details may not add to totals due to rounding. Data in this table are used in Figures 2 and 3.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1987.

TABLE A-7

LARGEST 15 FEDERAL COAL LESSEES RANKED BY
ACREAGE: SEPTEMBER 30, 1987

Lessee	Acreage	Number of Leases
AMCA Coal Leasing, Inc.	43,246	27
Consolidation Coal Co.	31,594	17
Utah Power & Light Co.	29,350	15
Nevada Electric Investment Co.	29,299	31
Swanton Energy Res. Inc.	27,659	16
5M Inc.	22,683	12
Kaiser Coal Corp.	19,587	14
Peabody Coal Co.	17,587	6
Chevron, USA	16,911	18
Kiewit Mining Group Inc.	16,179	6
Dorchester Coal Co.	15,804	3
Salt Creek Mining Co.	14,929	6
Black Butte Coal Co.	14,902	1
Pacific Power & Light	13,960	12
Evans Coal Co.	13,559	9

SOURCE: U.S. Department of the Interior, Bureau of Land Management,
Division of Solid Mineral Operations, Solid Leasable Minerals System,
September 30, 1987.

TABLE A-8
FEDERAL COAL LEASES ISSUED SINCE FISCAL YEAR 1978
BY FISCAL YEAR

	Number of Issued Leases	Total Acreage Of Issued Leases	Estimated Total Recoverable Reserves Of Issued Leases (In Mil. Tons)
FY 1978	2	574	3.42
FY 1979	13	9,062	70.78
FY 1980	14	10,376	135.63
FY 1981	15	33,398	295.63
FY 1982	40	84,283	1,406.87
FY 1983	21	28,609	996.07
FY 1984	6	6,595	70.17
FY 1985	6	1,473	6.23
FY 1986	7	15,065	124.07
FY 1987	6	2,615	12.53
Total	130	192,050	3,121.40

NOTE: The data in this table are used in Figures A-1, A-2, and A-3. The differences in the number, acreage, and tonnages of leases issued and leases sold since FY 1978 is due to several factors. Thirteen PRLAs have been issued during the period; 1 lease has been sold, but has not yet been issued at the end of FY 1987; 6 leases were issued as the result of lease exchanges and partial lease assignments and thus were not counted as sold.

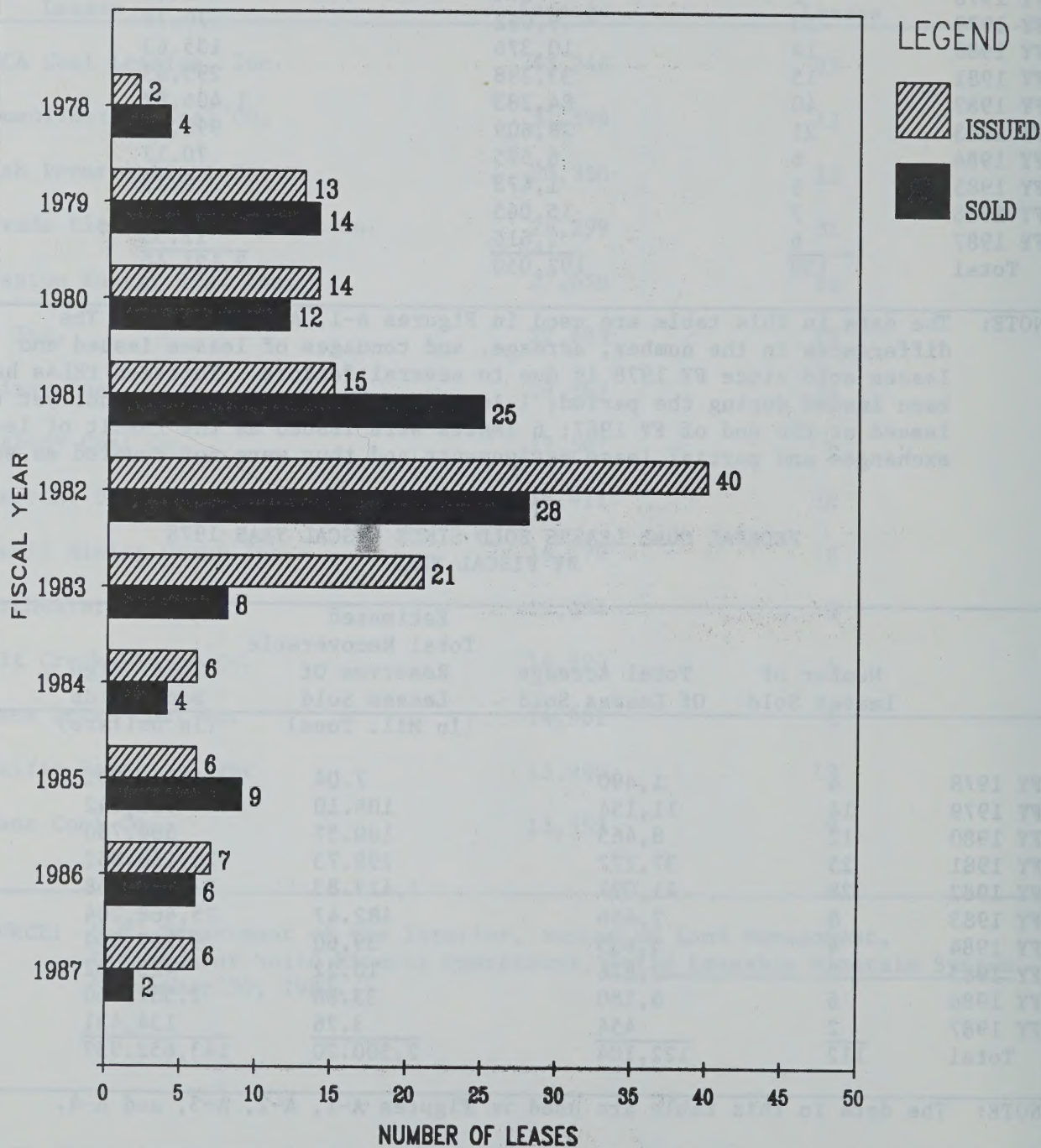
TABLE A-9
FEDERAL COAL LEASES SOLD SINCE FISCAL YEAR 1978
BY FISCAL YEAR

	Number of Leases Sold	Total Acreage Of Leases Sold	Estimated Total Recoverable Reserves Of Leases Sold (In Mil. Tons)	Total High Bonus Bids (In Dollars)
FY 1978	4	1,490	7.04	\$104,801
FY 1979	14	11,154	106.10	960,042
FY 1980	12	8,465	100.57	564,780
FY 1981	25	37,277	298.73	26,150,862
FY 1982	28	41,097	1,417.83	77,538,168
FY 1983	8	7,456	482.47	25,468,204
FY 1984	4	5,655	39.60	9,767,959
FY 1985	9	2,876	10.22	425,952
FY 1986	6	6,180	33.88	2,537,760
FY 1987	2	454	3.76	134,431
Total	112	122,104	2,500.20	143,652,959

NOTE: The data in this table are used in Figures A-1, A-2, A-3, and A-4.

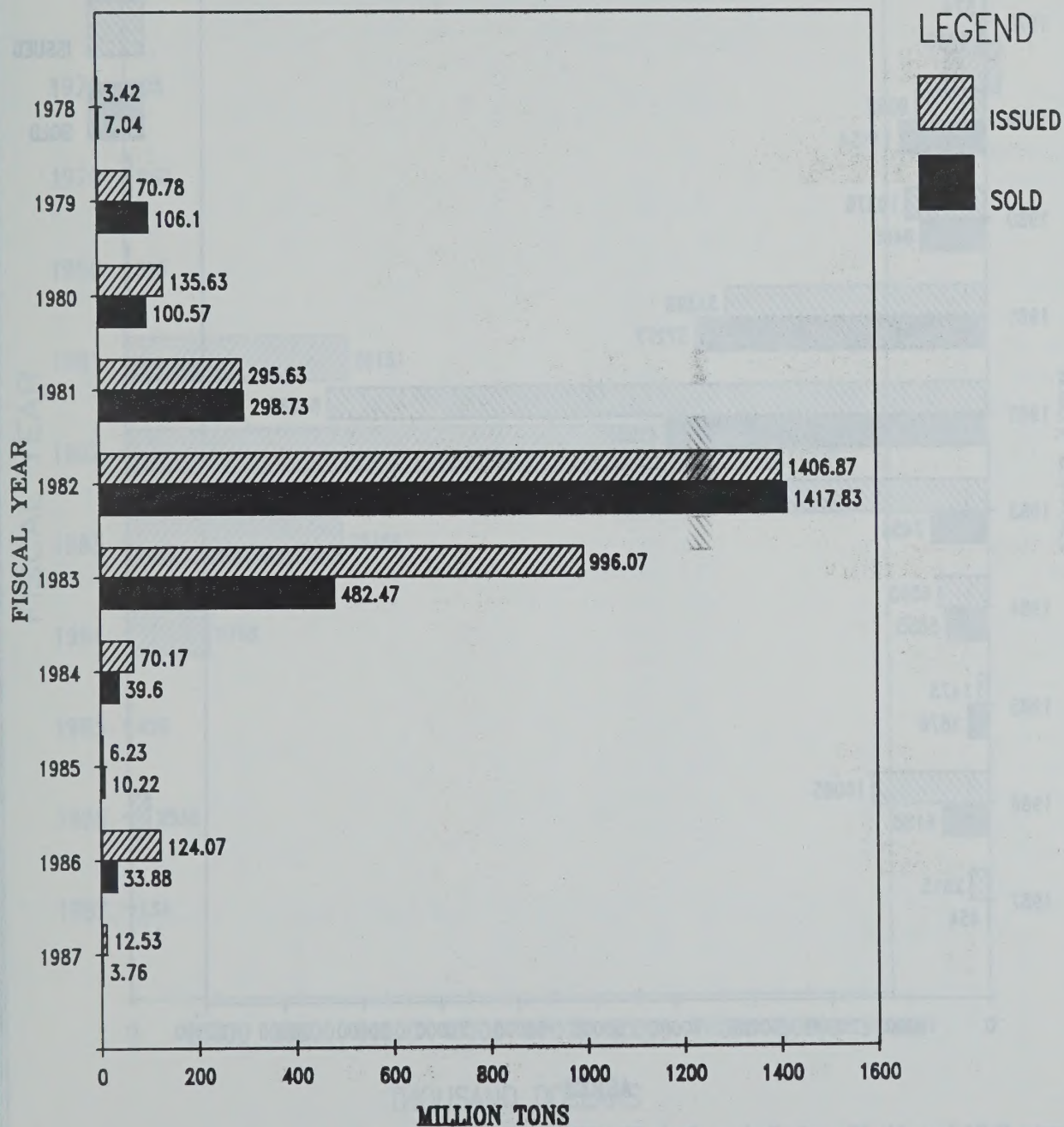
SOURCE: Tables A-8 and A-9, U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1987.

Figure A-1
Federal Coal Leases
 Issued and Sold Since FY 1978



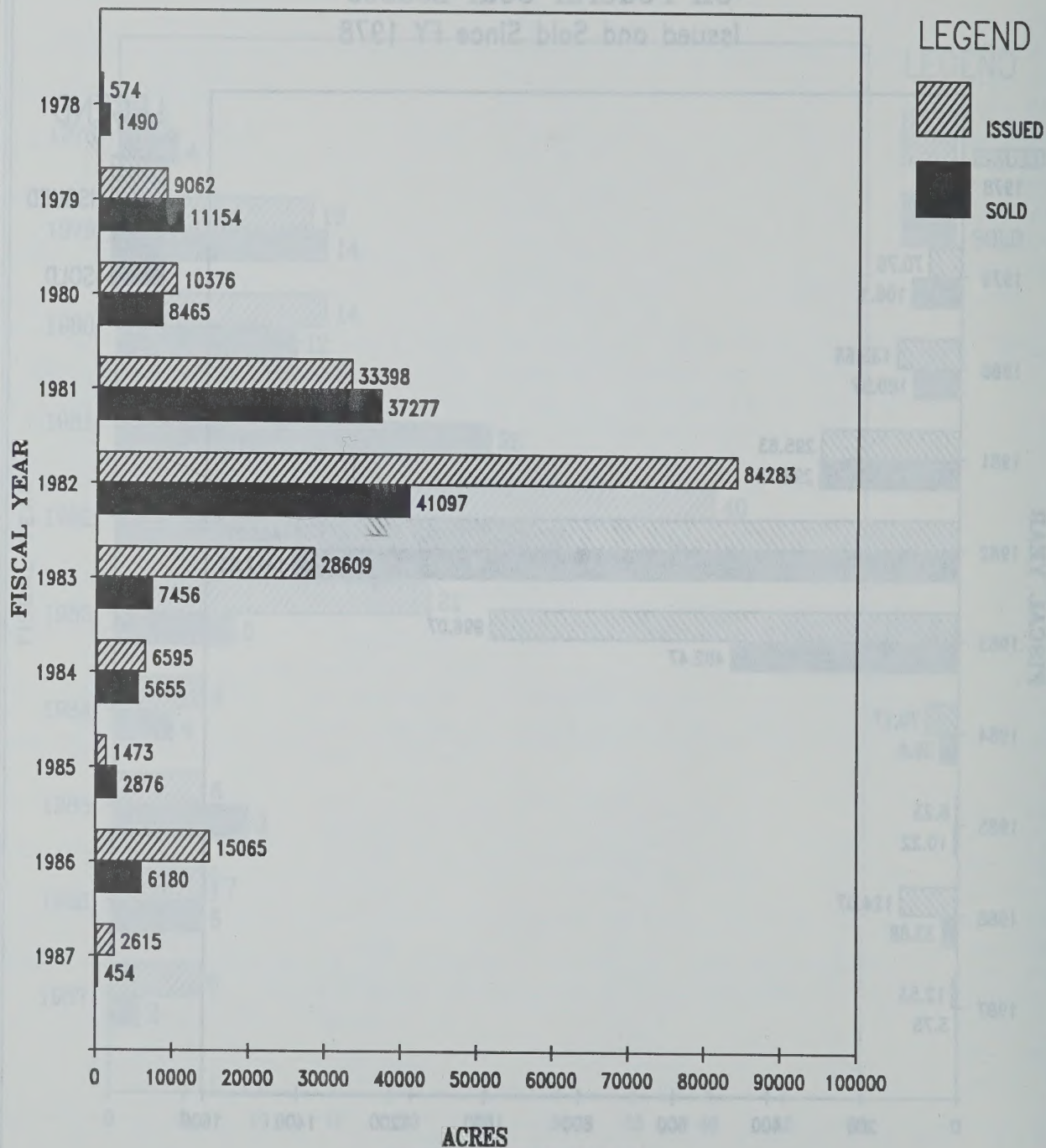
SOURCE: Solid Leasable Minerals System, September 30, 1987

Figure A-2
**Recoverable Reserves
on Federal Coal Leases
Issued and Sold Since FY 1978**



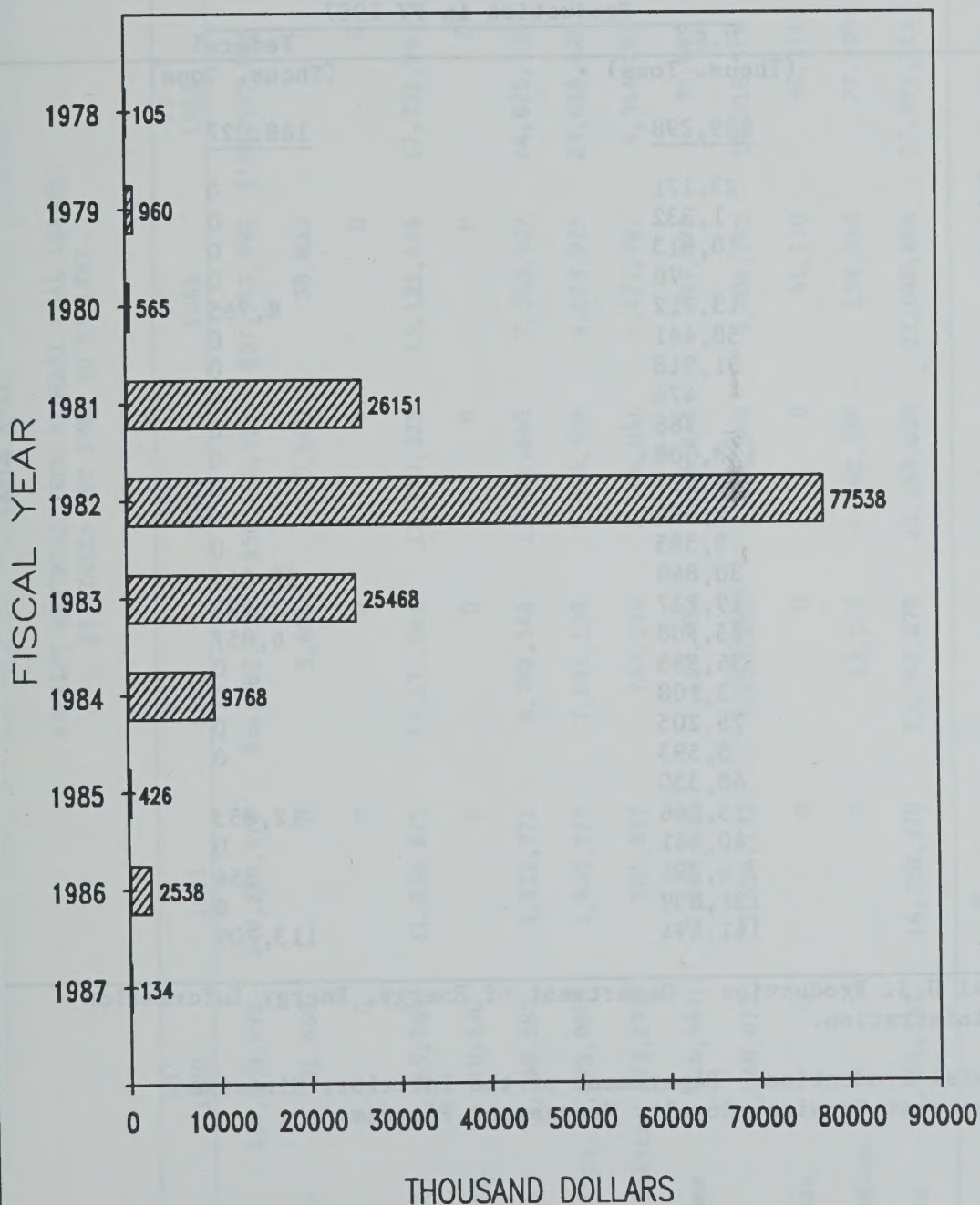
Source: Solid Leasable Minerals System, Sept. 30, 1987

Figure A-3
Acreage of Federal Coal Leases
Issued and Sold Since FY 1978



Source: Solid Leasable Minerals System, Sept. 30, 1987

Figure A-4
**Total High Bonus Bids Received
 For Federal Coal Leases
 Since FY 1978**



Source: Solid Leasable Minerals System, Sept. 30, 1987

TABLE A-10

TOTAL UNITED STATES COAL PRODUCTION AND FEDERAL PRODUCTION
BY STATE: FISCAL YEAR 1987

State	Production in FY 1987	
	U.S. (Thous. Tons)	Federal (Thous. Tons)
<u>Total</u>	<u>889,298</u>	<u>168,027</u>
Alabama	23,171	0
Alaska	1,332	0
Arizona	10,913	0
Arkansas	70	0
Colorado	13,712	8,765
Illinois	58,441	0
Indiana	31,918	0
Iowa	474	0
Kansas	768	0
Kentucky	158,808	0
Louisiana	2,527	0
Maryland	4,064	0
Missouri	5,585	0
Montana	30,840	22,864
New Mexico	19,237	3,225
North Dakota	25,708	6,057
Ohio	36,383	0
Oklahoma	3,108	0
Pennsylvania	75,205	0
Tennessee	5,593	0
Texas	48,330	0
Utah	15,046	12,853
Virginia	40,441	0
Washington	4,291	554
West Virginia	131,839	0
Wyoming	141,494	113,709

SOURCE: Total U.S. Production - Department of Energy, Energy Information Administration.

Federal Production - Department of the Interior, Minerals Management Service, Royalty Management Program.

TABLE A-11

ROYALTY REVENUES FROM FEDERAL COAL LEASES,
BY STATE: FY 1980 TO FY 1987

	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987
Total	\$24,568,692	\$40,280,418	\$61,062,456	\$56,666,428	\$57,797,590	\$104,597,046	\$101,144,698	\$142,336,808
Alabama	31,669	0	3,686	175,600	58,633	0	0	0
Alaska	0	0	0	0	0	0	0	0
Colorado	7,115,564	11,952,875	13,170,861	12,270,325	13,121,474	17,331,963	20,032,273	15,031,721
Kentucky	10,830	0	0	0	0	0	0	0
Montana	2,065,885	3,922,771	8,782,544	13,681,669	7,533,527	14,625,338	17,853,566	38,986,165
New Mexico	1,472,900	3,440,772	7,841,138	5,000,506	6,623,975	23,884,620	15,402,285	10,325,319
North Dakota	272,272	101,677	745,253	2,106,051	1,477,787	6,344,295	6,669,614	5,365,814
Oklahoma	826,942	1,009,820	1,110,490	606,141	147,678	32,699	54,282	0
Utah	3,968,073	5,094,133	5,833,291	7,611,949	6,004,792	14,316,916	12,325,802	19,721,301
Virginia	0	0	0	0	41,110	90,271	0	0
Washington	0	0	13,115	46,149	139,948	79,729	130,826	117,287
Wyoming	8,804,557	14,758,370	23,562,078	15,168,038	22,648,666	27,891,215	28,676,050	52,789,201

NOTE: Details may not add to totals due to rounding. The statistics for FY 1987 represent production and royalty reported during FY 1987 and adjustments made during FY 1987 for prior periods. The FY 1987 royalty management statistics may not represent actual production achieved in FY 1987 for the royalty accrued on that production due to adjustment for previous years. These data are unpublished.

SOURCE: U.S Department of the Interior, Minerals Management Service, Royalty Management Program.

TABLE A-12

PRODUCTION FROM FEDERAL COAL LEASES,
BY STATE: FY 1980 TO FY 1987
THOUSAND TONS

	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987
Total	71,958	94,645	104,430	105,449	104,150	162,189	163,900	168,027
Alabama	28	0	2	105	33	0	0	0
Alaska	0	0	0	0	0	0	0	0
Colorado	8,563	11,452	9,157	10,795	9,927	10,380	10,121	8,765
Kentucky	9	0	0	0	0	0	0	0
Montana	10,345	15,402	25,195	11,574	14,520	24,031	22,433	22,864
New Mexico	6,546	8,873	4,847	2,290	3,048	5,145	4,825	3,225
North Dakota	1,418	200	1,190	2,253	1,311	6,271	6,853	6,057
Oklahoma	300	277	246	101	33	29	47	0
Utah	8,618	8,577	7,892	10,124	6,128	11,438	9,480	12,853
Virginia	0	0	0	0	14	32	0	0
Washington	0	0	66	231	700	326	654	554
Wyoming	36,131	49,864	55,835	67,976	68,436	104,537	109,487	113,709

NOTE: The statistics for FY 1987 represent production and royalty reported during FY 1987 and adjustments made during FY 1987 for prior periods. The FY 1987 royalty management statistics may not represent actual production achieved in FY 1987 due to adjustments for previous years. Estimated in part. This data is unpublished.

SOURCE: U.S. Department of the Interior, Minerals Management Service, Royalty Management Program.

TABLE A-13

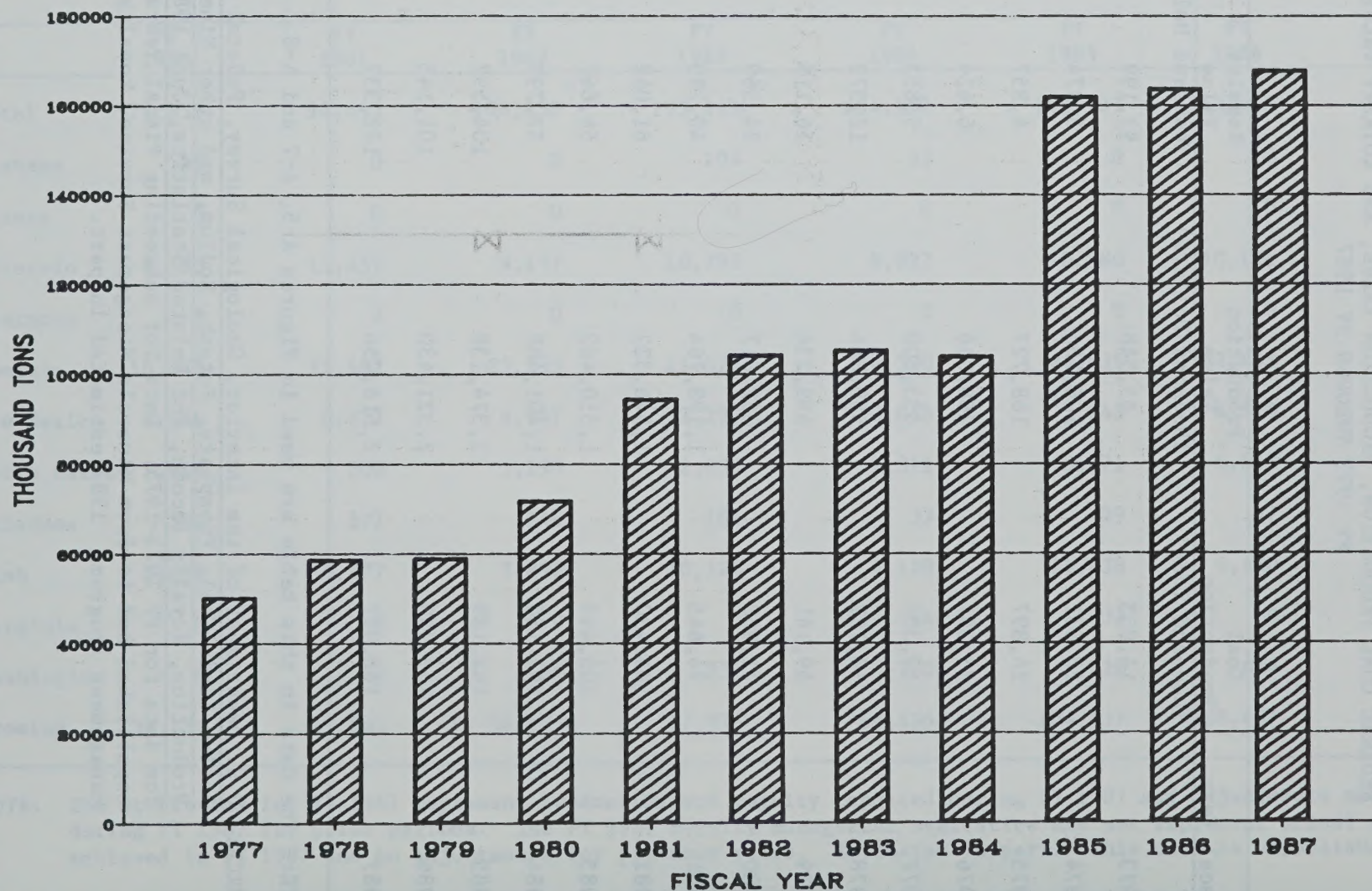
FEDERAL COAL PRODUCTION, PRODUCTION VALUE, AND ROYALTY VALUE
FY 1973 THROUGH FY 1987

Fiscal Year	Coal Production (Thousand Tons)	Production Value (Thousand Dollars)	Royalty Value (Thousand Dollars)
1973	14,033	65,548	\$2,199
1974	20,631	106,536	3,374
1975	26,897	168,727	4,857
1976	33,387	268,056	6,424
1977	50,355	433,600	9,853
1978	58,787	550,864	12,372
1979	59,141	699,234	16,119
1980	71,958	862,817	24,569
1981	94,645	1,198,764	40,280
1982	104,430	1,546,322	61,062
1983	105,449	1,550,462	56,667
1984	104,150	1,401,488	57,797
1985	162,189	2,374,138	104,597
1986	163,900	2,321,430	101,145
1987	168,027	2,616,056	142,337

NOTE: The data in this table are used in Figures A-5, A-7 and A-8.

SOURCE: U.S. Department of the Interior, Geological Survey, Federal and Indian Lands Coal, Phosphate, Potash, Sodium, and other Mineral Production, Royalty Income, and Related Statistics, June 1981, for data for FY 1973-1975. Data for succeeding Fiscal Years is unpublished and is from Minerals Management Service, Royalty Management Program. 1987 estimated in part.

Figure A-5
Production from Federal Coal Leases
FY 1977 thru FY 1987



Source: Minerals Management Service, Royalty Management Program, Dec. 1987

Figure A-6

Federal Coal Lease Production

By BLM State Office FY 1980 to FY 1987

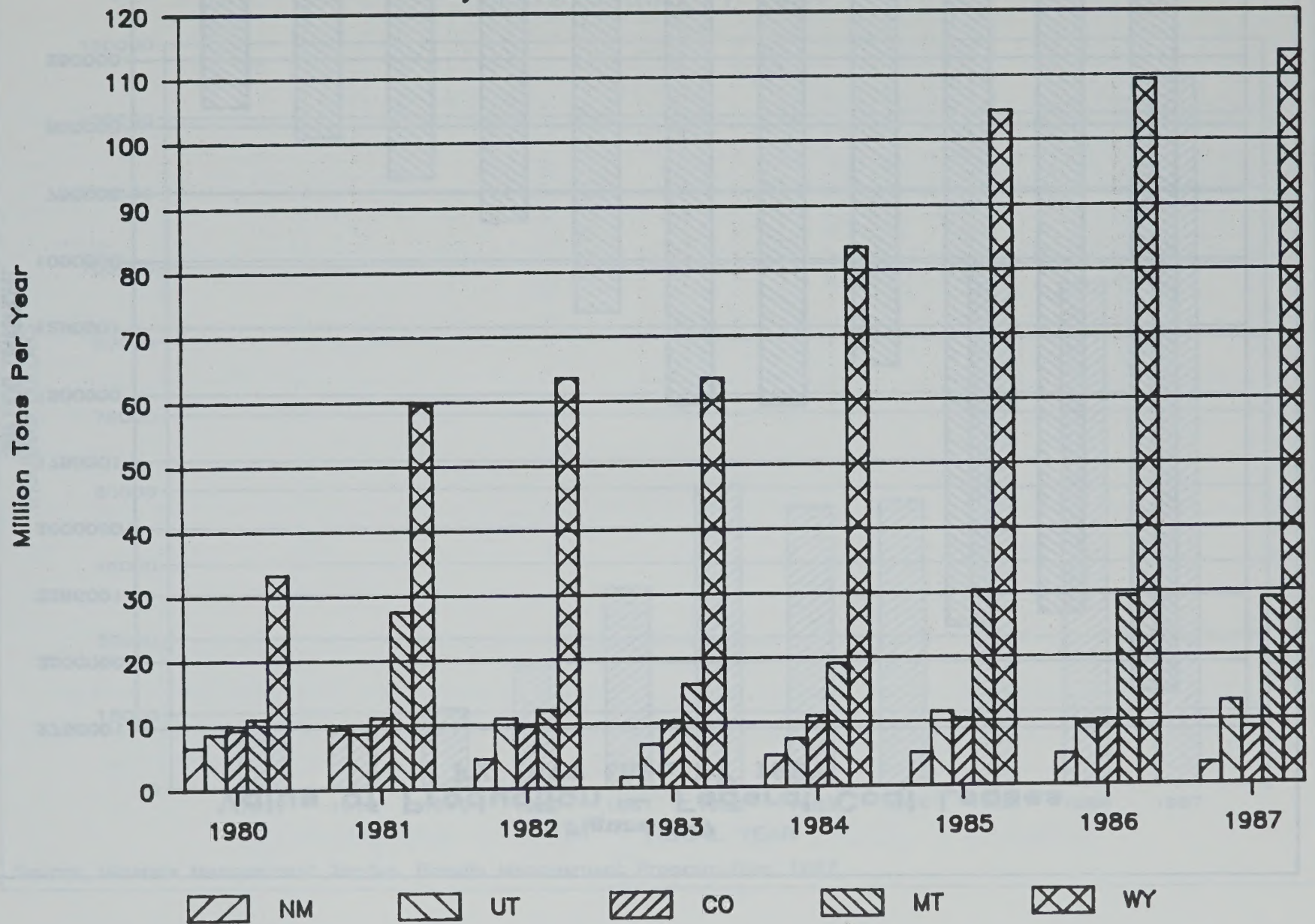
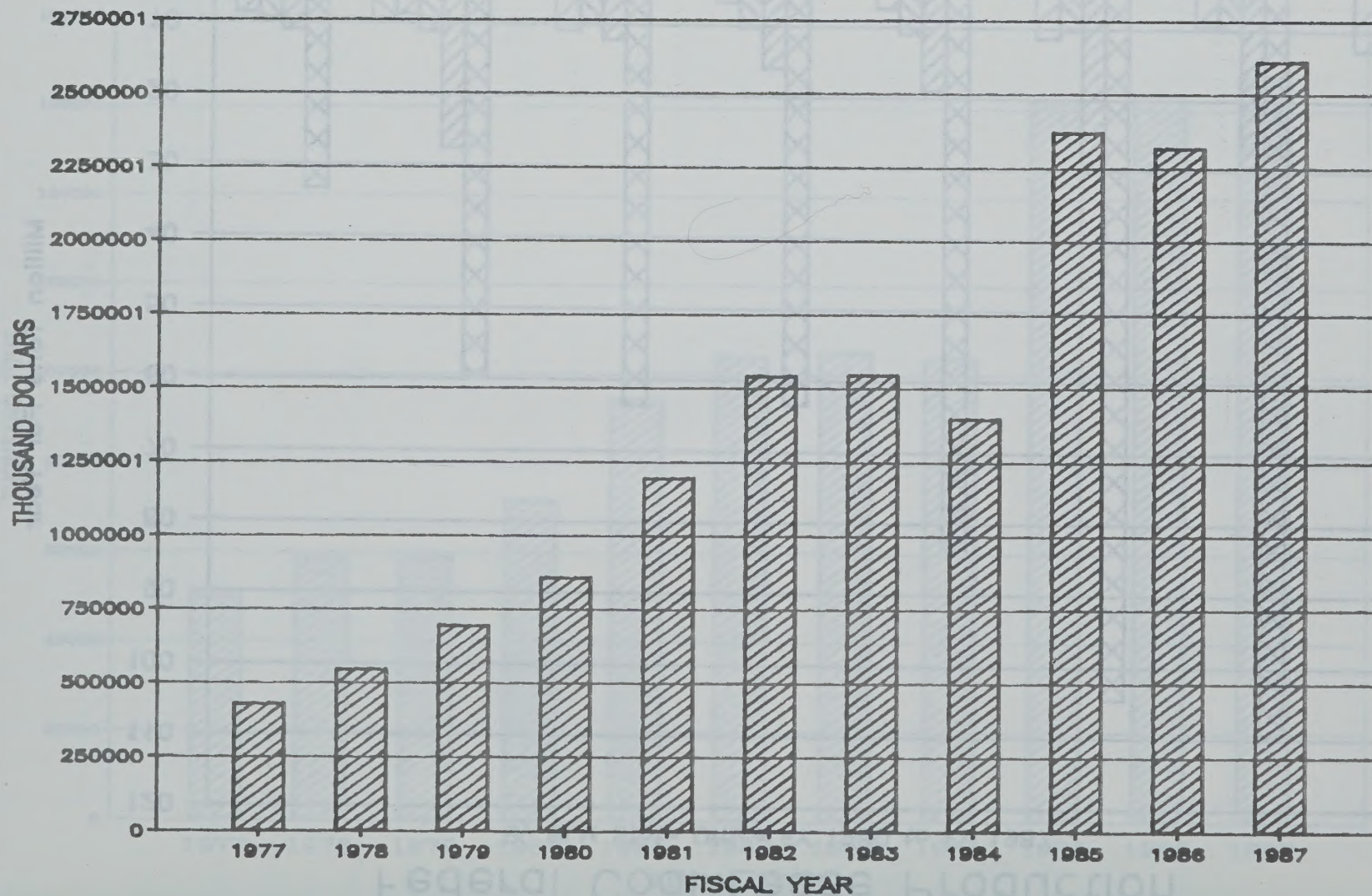
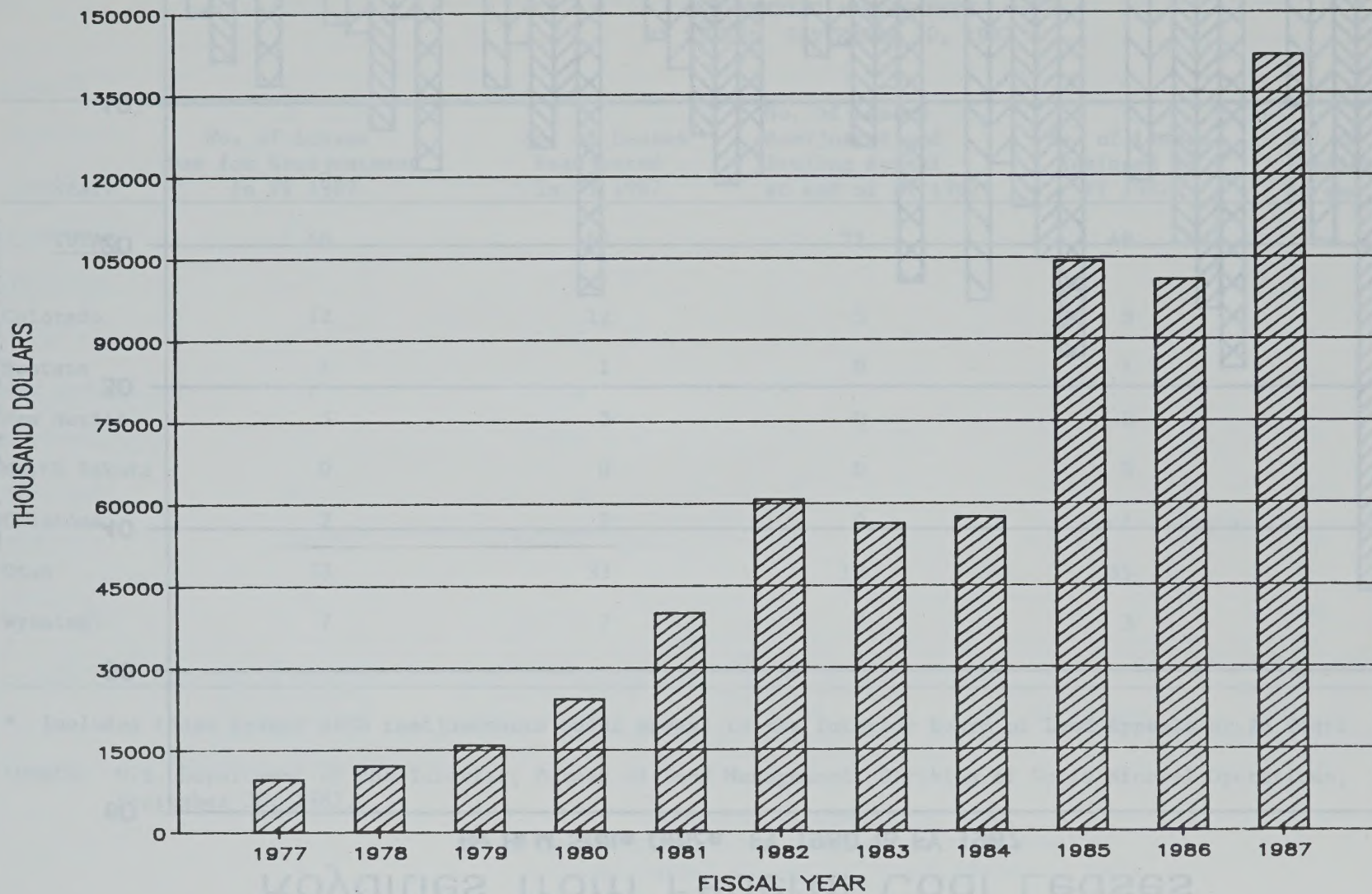


Figure A-7
Value of Production — Federal Coal Leases
FY 1977 thru FY 1987



SOURCE: Minerals Management Service, Royalty Management Program Dec. 1987

Figure A-8
Royalties from Federal Coal Leases
FY 1977 thru FY 1987



Source: Minerals Management Service, Royalty Management Program Dec. 1987

Figure A-9

Royalties from Federal Coal Leases

By BLM State Office FY 1980 to FY 1987

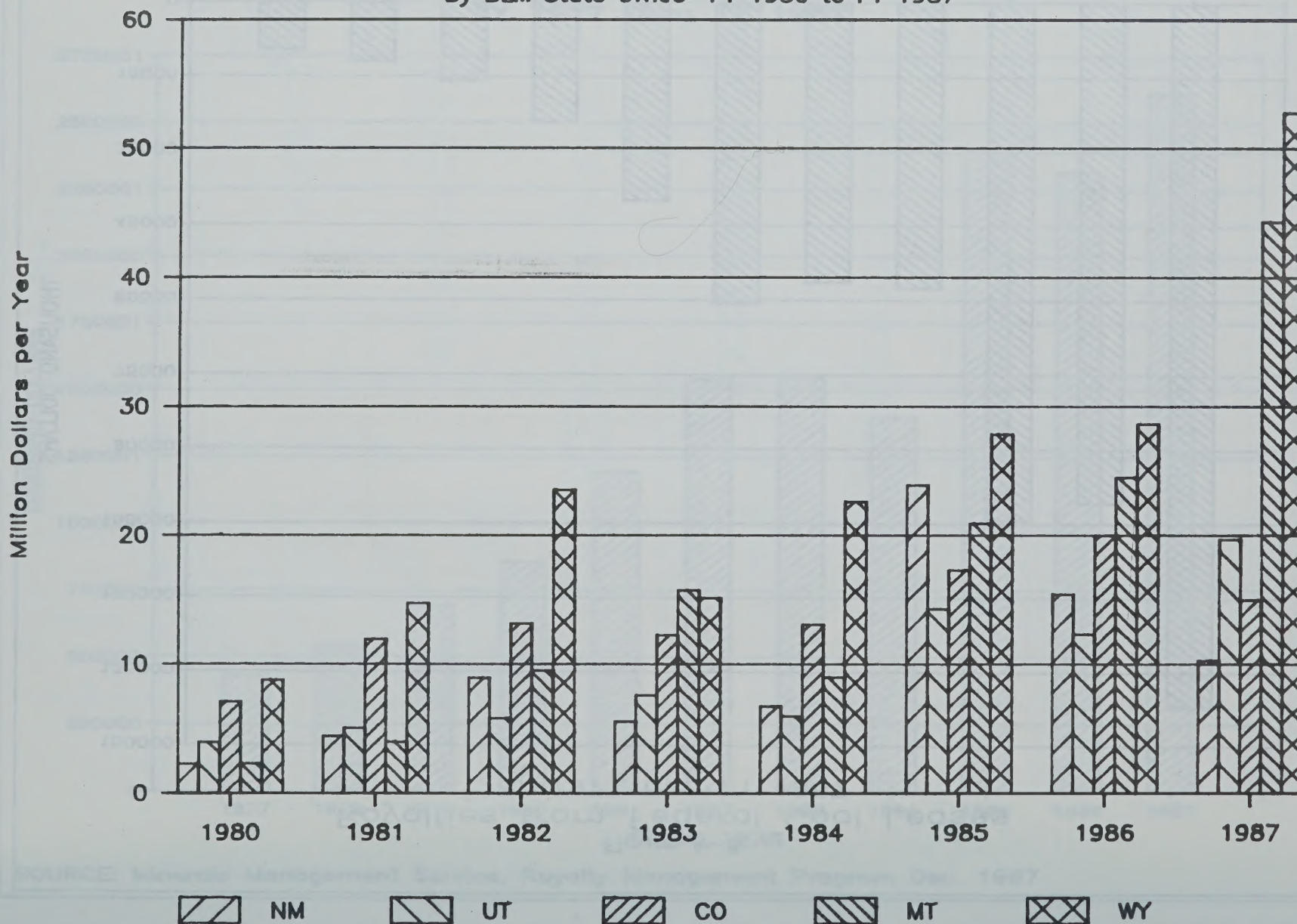


TABLE A-14

READJUSTMENTS AND ASSIGNMENTS DURING FY 1987
AND PENDING ASSIGNMENTS
BY STATE: SEPTEMBER 30, 1987

State	No. of Leases Due for Readjustment in FY 1987	No. of Leases Readjusted in FY 1987	No. of Leases Readjusted and Pending Appeal at end of FY 1987*	No. of Leases Assigned in FY 1987	No. of Leases Pending Assignment at end of FY 1987
<u>TOTAL</u>	60	60	22	48	13
Colorado	12	12	5	8	8
Montana	1	1	0	1	1
New Mexico	5	5	0	0	0
North Dakota	0	0	0	0	0
Oklahoma	2	2	0	1	0
Utah	33	33	10	35	2
Wyoming	7	7	7	3	2

* Includes those leases with readjustments under appeal to the Interior Board of Land Appeals or in Court.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations,
September 30, 1987.

TABLE A-15

RELINQUISHMENTS AND MODIFICATIONS DURING FY 1987
AND PENDING RELINQUISHMENTS AND MODIFICATIONS
BY STATE: SEPTEMBER 30, 1987

State	No. of Leases Relinquished During FY 1987	Total Acreage of Relinquished Leases	No. of Leases Pending Relinquishment at end of FY 1987	No. of Leases Modified During FY 1987	No. of Leases Pending Modifications at end of FY 1987
<u>TOTAL</u>	52	76,158	35	0	8
Colorado	27	27,325	3	0	0
Kentucky	0	0	3	0	0
Montana	2	5,096	0	0	0
New Mexico	2 <u>1</u> / ₂	2,953	11	0	1
North Dakota	3	1,120	1	0	0
Oklahoma	1	160	2	0	1
Oregon	0	0	2	0	0
Utah	9	24,536	11	0	5
Virginia	0	0	1	0	0
Wyoming	8	14,967	1	0	2

1/ These two leases transferred jurisdiction to Indian control as lands patented under the Navajo-Hopi Settlement Act of 1974.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, September 30, 1987.

TABLE A-16

READJUSTMENTS ON FEDERAL COAL LEASES
FROM FY 1984 THRU FY 1987

State	No. of Leases Readjusted in FY 1984	No. of Leases Readjusted in FY 1985	No. of Leases Readjusted in FY 1986	No. of Leases Readjusted in FY 1987
<u>TOTAL</u>	34	39	49	60
Colorado	9	14	7	12
Montana	5	1	2	1
New Mexico	3	1	0	5
North Dakota	1	0	1	0
Oklahoma	1	1	1	2
Utah	10	14	36	33
Wyoming	5	5	2	7

NOTE: The data in this table is used in Figures A-10, A-11, A-12, and A-13.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, September 30, 1987.

TABLE A-17

RELINQUISHMENTS ON FEDERAL COAL LEASES
FROM FY 1984 THRU FY 1987

State	No. of Lease Relinquishments in FY 1984	No. of Lease Relinquishments in FY 1985	No. of Lease Relinquishments in FY 1986	No. of Lease Relinquishments in FY 1987
<u>TOTAL</u>	9	17	31	52
Alabama	0	1	0	0
Colorado	5	3	4	27
Montana	0	1	0	2
New Mexico	1	0	0	2
North Dakota	0	0	1	3
Oklahoma	0	5	3	1
Utah	2	3	8	9
Wyoming	1	5	14	8

NOTE: The data in this table is used in Figures A-10, A-11, A-12, and A-13.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, September 30, 1987.

TABLE A-18

ASSIGNMENTS ON FEDERAL COAL LEASES
FROM FY 1984 THRU FY 1987

State	No. of Lease Assignments in FY 1984	No. of Lease Assignments in FY 1985	No. of Lease Assignments in FY 1986	No. of Lease Assignments in FY 1987
<u>TOTAL</u>	37	41	50	48
Alabama	0	0	0	0
Colorado	6	7	6	8
Kentucky	0	1	0	0
Montana	0	0	1	1
New Mexico	0	6	4	0
North Dakota	3	0	0	0
Oklahoma	5	1	0	1
Utah	21	22	38	35
Wyoming	2	4	1	3

NOTE: The data in this table is used in Figures A-10, A-11, A-12, and A-13.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, September 30, 1987.

Figure A-10

Federal Coal Lease

Actions in Fiscal Year 1984

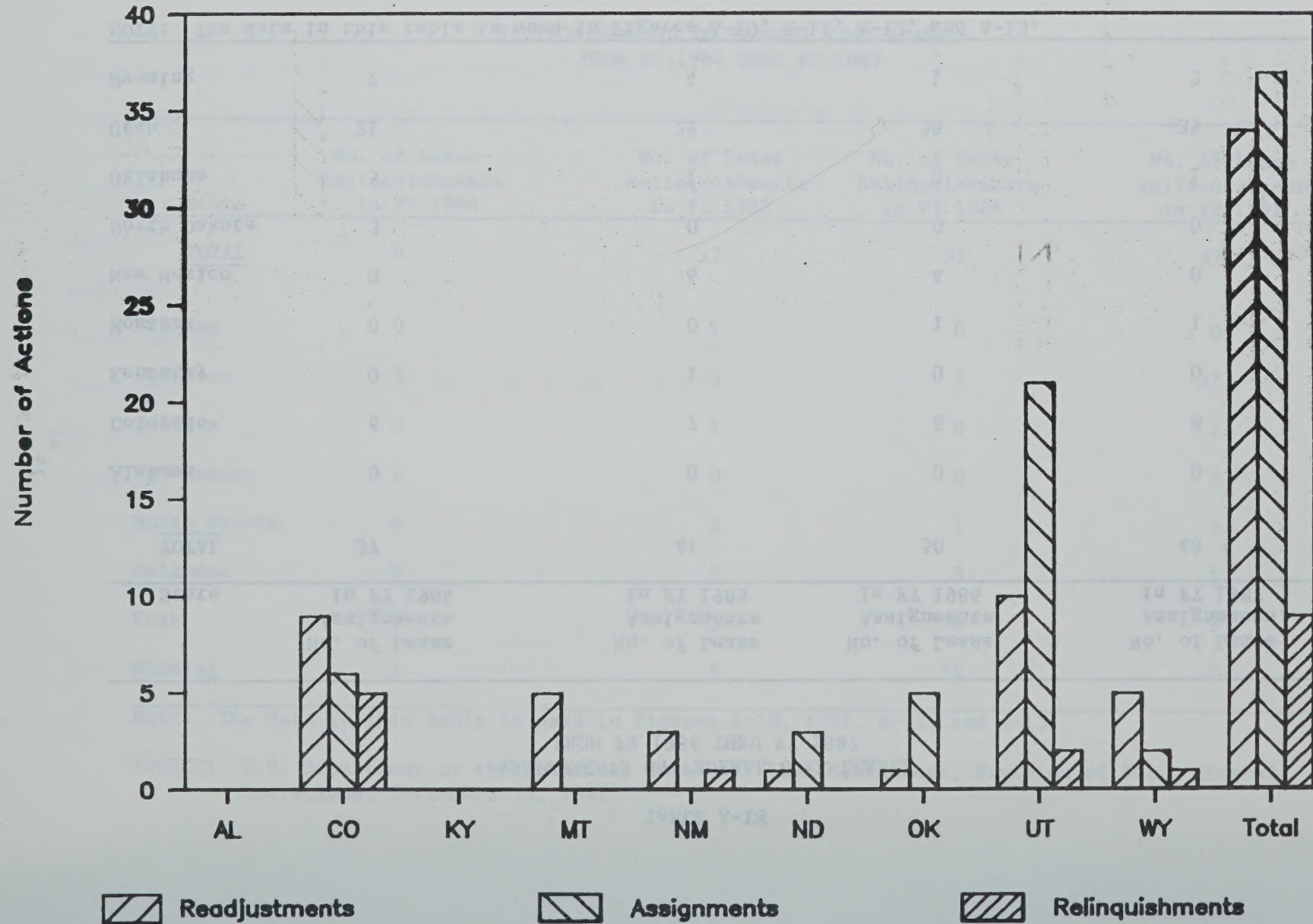


Figure A-11

Federal Coal Lease

Actions in Fiscal Year 1985

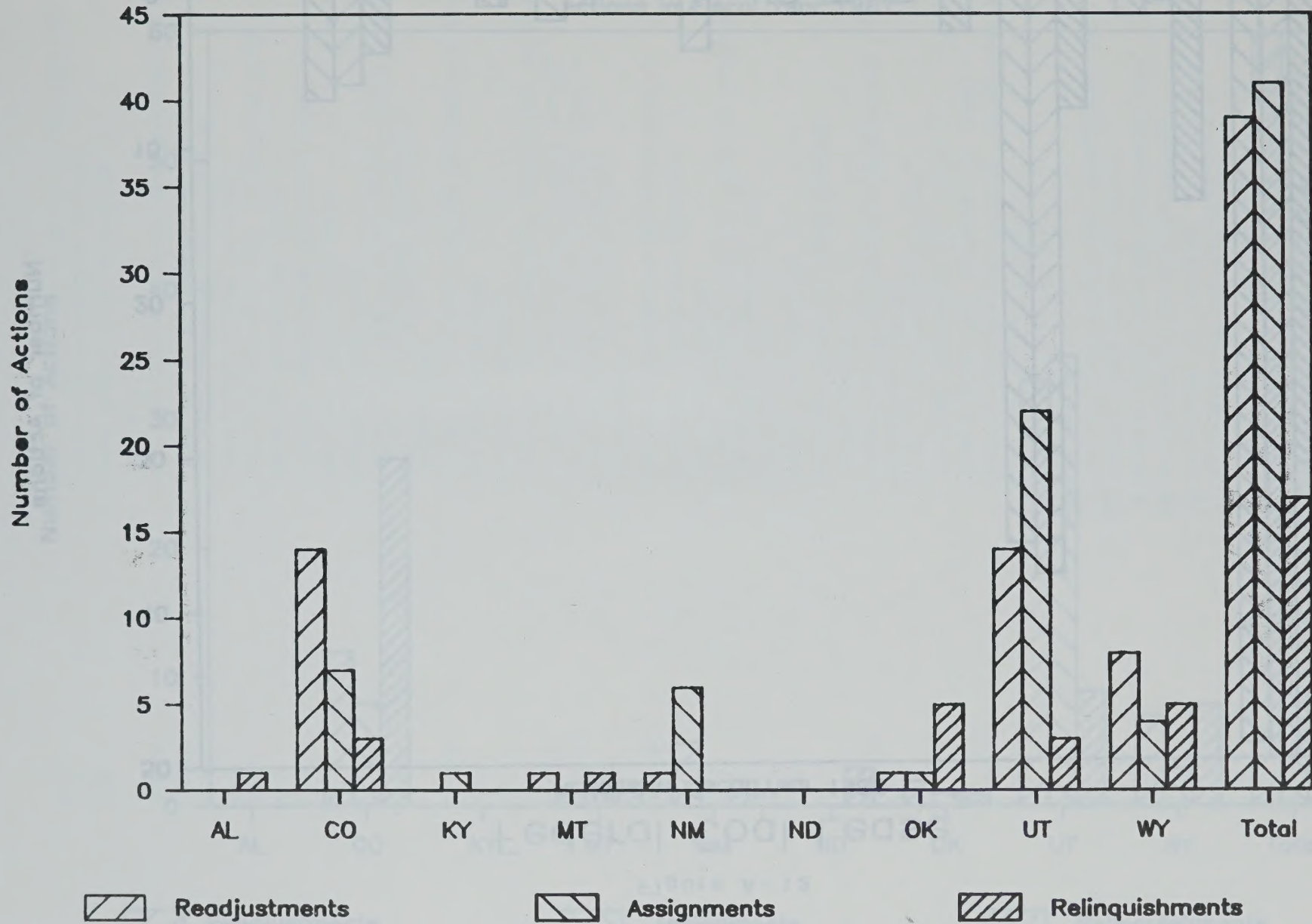


Figure A-12

Federal Coal Lease

Actions in Fiscal Year 1986

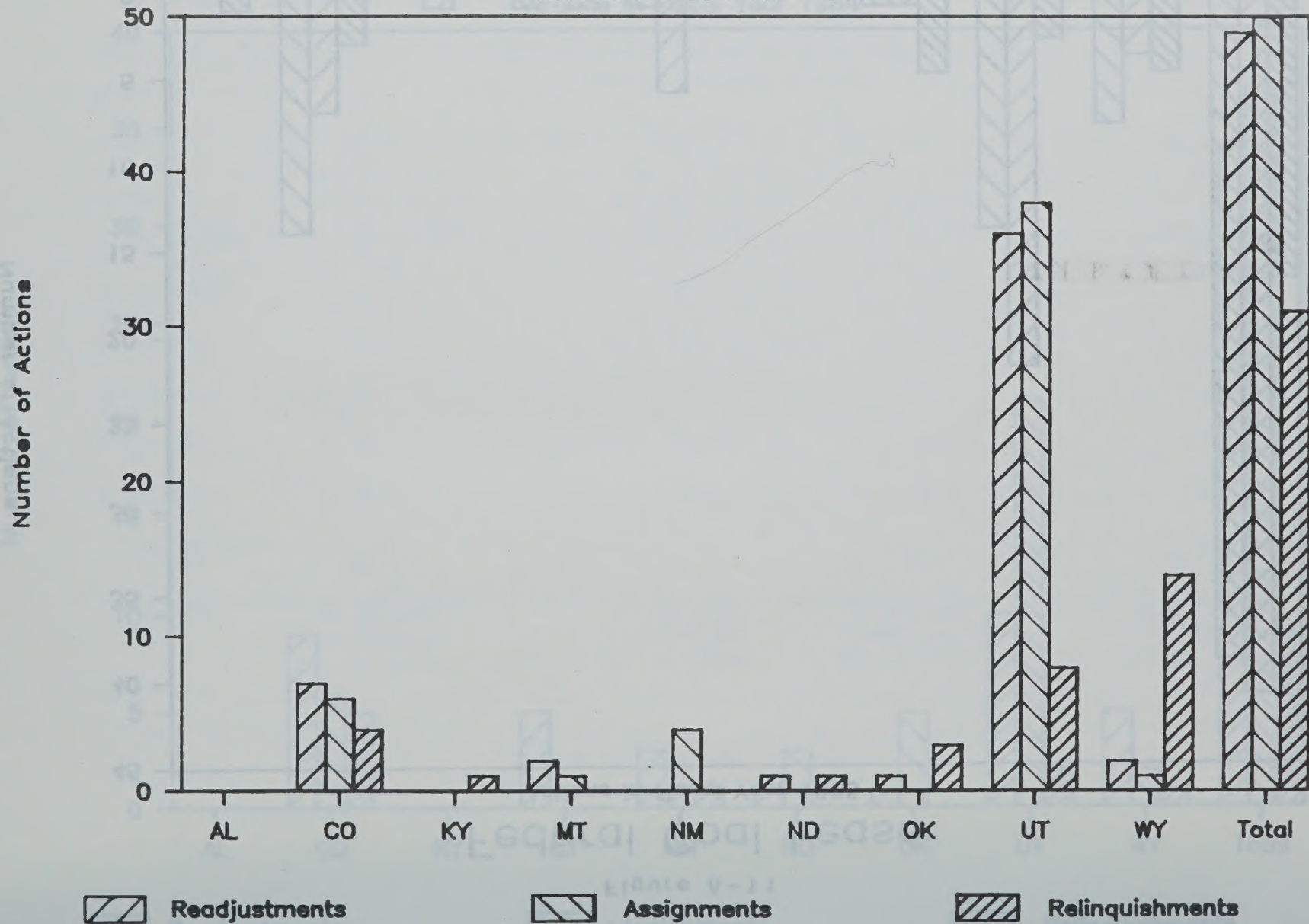
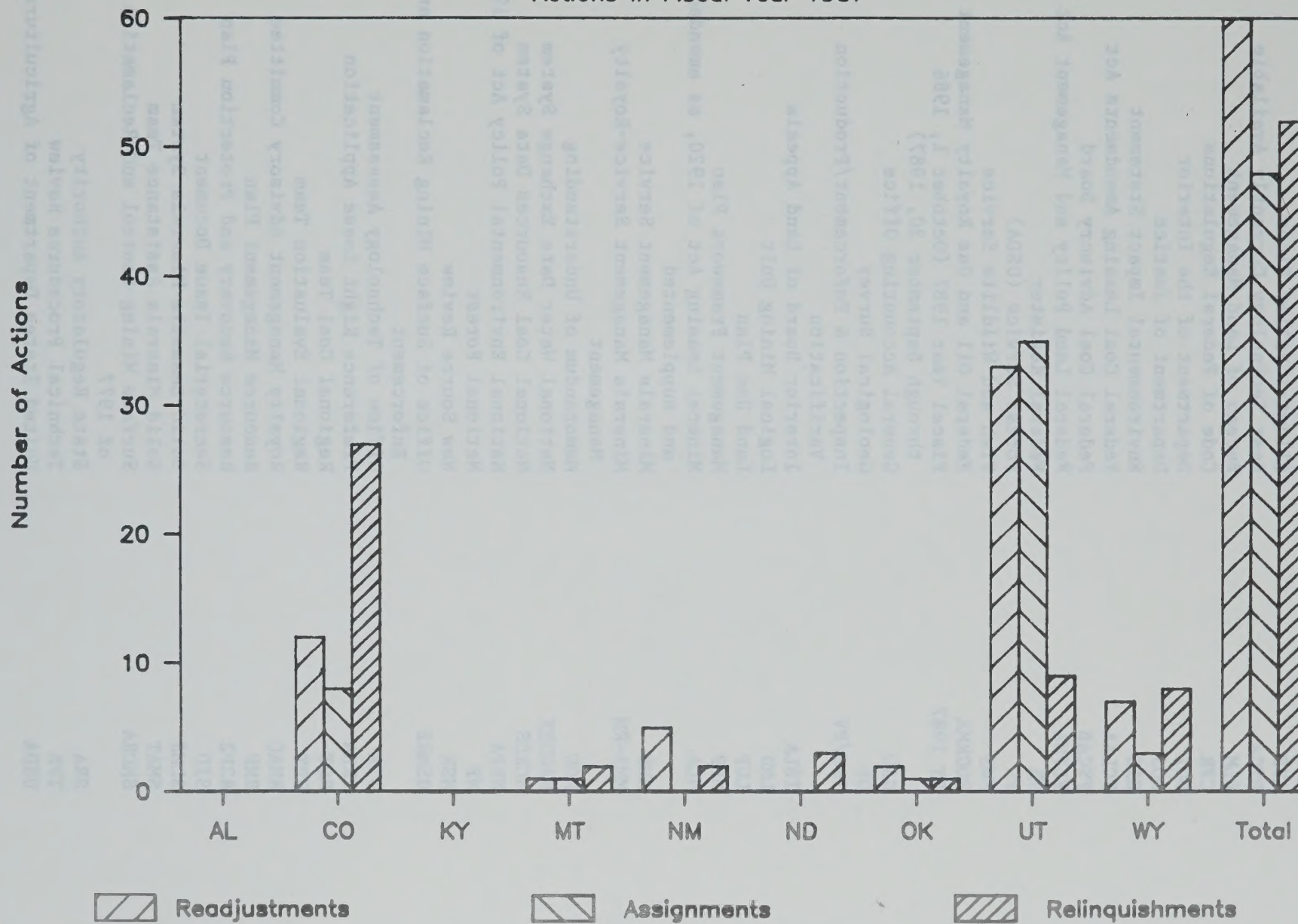


Figure A-13
Federal Coal Lease
Actions in Fiscal Year 1987



GLOSSARY

AML	Abandoned Mine Land
AVF	Alluvial Valley Floor
BTCA	Best Technology Currently Available
BLM	Bureau of Land Management
CFR	Code of Federal Regulations
DOI	Department of the Interior
DOJ	Department of Justice
EIS	Environmental Impact Statement
FCLAA	Federal Coal Leasing Amendments Act
FSCAB	Federal Coal Advisory Board
FLPMA	Federal Land Policy and Management Act
FR	Federal Register
FS	Forest Service (USDA)
FWS	Fish and Wildlife Service
FOGRMA	Federal Oil and Gas Royalty Management Act
FY 1987	Fiscal Year 1987 (October 1, 1986 through September 30, 1987)
GAO	General Accounting Office
GS	Geological Survey
I&E/PV	Inspection & Enforcement/Production Verification
IBLA	Interior Board of Land Appeals
LMU	Logical Mining Unit
LUP	Land Use Plan
MFP	Management Framework Plan
MLA	Mineral Leasing Act of 1920, as amended and supplemented
MMS	Minerals Management Service
MMS-RM	Minerals Management Service-Royalty Management
MOU	Memorandum of Understanding
NAWDEX	National Water Data Exchange System
NCRDS	National Coal Resources Data System
NEPA	National Environmental Policy Act of 1969
NF	National Forest
NSR	New Source Review
OSMRE	Office of Surface Mining Reclamation and Enforcement
OTA	Office of Technology Assessment
PRLA	Preference Right Lease Application
RCT	Regional Coal Team
RET	Regional Evaluation Team
RMAC	Royalty Management Advisory Committee
RMP	Resource Management Plan
R2P2	Resource Recovery and Protection Plan
SID	Secretarial Issue Document
SLMS	Solid Leasable Minerals System
SMAT	Solid Minerals Assistance Team
SMCRA	Surface Mining Control and Reclamation Act of 1977
SRA	State Regulatory Authority
TPR	Technical Procedures Review
USDA	United States Department of Agriculture



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240



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September 18, 1989

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